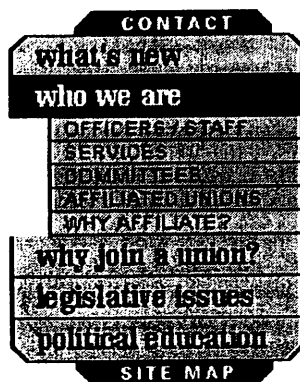


This page was last updated on
01.02.03



Washington State Labor Council, AFL-CIO

is a non-profit organization representing more than 550 local unions and trade councils, and offering services via legislative, political and education programs, as well as in the community, in the schools and with the media. The WSLC is widely considered to be the "voice" of labor in our state.

The WSLC is a voluntary organization; only locals and councils affiliated with the American Federation of Labor and Congress of Industrial Organizations are eligible to affiliate. Although not every AFL-CIO local or council is a dues-paying affiliate, the WSLC represents the the official position of the AFL-CIO in our state. It operates by consensus and has no legal or constitutional authority to impose a position or policy on any local union or trade council.

Officers of the WSLC are elected by affiliated members every four years. The elected officers are the President, the Secretary-Treasurer and the 20 Vice Presidents who together comprise the Executive Board. The board meets quarterly and establishes policies and programs for the WSLC in between conventions.

Conventions are held annually. Delegates to WSLC conventions debate and establish the organization's positions or policies on issues, candidates and programs by voting on motions and resolutions. Any credentialed delegate may introduce motions to the convention, and any affiliate may submit resolutions to the convention.

Currently, there are more than 550 local unions affiliated with the WSLC, representing some 430,000 individual union members working in our state. It is the largest labor organization in our state and is the only organization representing all AFL-CIO unions in Washington state.

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EXHIBIT /

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- ▶ **Mission Statement**
- ▶ **How the AFL-CIO Works**
 - [AFL-CIO Organization Chart](#)
- ▶ **Today's Unions**
- ▶ **FAQs**
- ▶ **Constitution**
- ▶ **Convention**



How the AFL-CIO Works

The AFL-CIO is governed by a quadrennial convention at which all federation members are represented by elected delegates of our unions. Convention delegates set broad policies and goals for the union movement and every four years elect the AFL-CIO officers—the president, secretary-treasurer, executive vice president and 51 vice presidents. These officers make up the AFL-CIO Executive Council, which guides the daily work of the federation. An AFL-CIO General Board includes the Executive Council members, a chief officer of each affiliated union and the trade and industrial departments created by the AFL-CIO constitution and four regional representatives of the state federations. The General Board takes up matters referred to it by the Executive Council, which traditionally include endorsements of candidates for U.S. president and vice president.


[Print this](#)
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At the state level, 51 **state federations** (including Puerto Rico's) coordinate with local unions and together give working families a voice in every state capital through political and legislative activity. The state federations are led by officers and boards elected by delegates from local unions chartered by the national AFL-CIO.

Also chartered by the AFL-CIO are nearly 570 **central labor councils**, which likewise give working families a voice in cities, towns and counties. Many central labor councils participate in an initiative to strengthen communities for working families and rebuild the union movement at the grassroots level. Union Cities mobilize union members to support workers trying to form unions, enhance workers' political voice and to build stronger community alliances.

Take Action

Make your voice heard in the center.

- Tell President Bush to withdraw from Iraq
- Act to protect freedom of religion

E-mail Alert

Join the Working Families Network for alerts.

Your E-mail

Join the Union Movement

Find Your Union

EXHIBIT 2

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National AFL-CIO

American Federation of Labor and Congress of Industrial Organizations

John Sweeney, President
Richard Trumka, Secretary-Treasurer
Linda Chavez-Thompson, Exec. VP
815 - 16th St., NW, Washington, DC, 20006
(202) 637-5000

AFL-CIO state office

Bob Gorman, State Director
104525.2422@compuserve.com
Dave Gregory, Western States COPE Director
DJGregory@worldnet.att.net
2800 - 1st Ave., #220, Seattle, 98121
(206) 448-4888 Fax: (206) 448-9250



Central Labor Councils and Union Label and Service Trade Councils

Clark, Skamania and West Klickitat Central Labor Council

Dianne Hibbard, Secretary-
Treasurer
P.O. Box 61929, Vancouver,
98666
360-921-7484 Fax: 360-673-3584
clarkclc@workingfamilies.com

Meets: 4th Thursday, 6 p.m.,
1205 Ingalls St., Vancouver

No ULSTC.

Cowlitz-Wahkiakum Central Labor Council

Jeff Smith, President
P.O. Box 430, Longview, 98632
360-425-3550

Meets: 2nd Monday, 7:30 p.m.,
627 14th Ave., Longview

ULSTC: John Philbrook

King County Labor Council

Steve Williamson, Executive
Secretary-Treasurer
2800 - 1st Ave., #206, Seattle,
98121
206-441-8510 Fax: 206-441-7103
kclcc@igc.org
www.kclcc.org

Meets: 3rd Wednesday, 7p.m.
(same address)

ULSTC: Steve Williamson

Kitsap County Labor Council

John Arena, Secretary-
Treasurer
632 - 5th St., #5, Bremerton,
98337-1492
360-373-5800
Fax: 360-373-5800 (call first)

Meets: 2nd Monday, 7 p.m.
(same address)

ULSTC: John Arena, S-T

Lewiston-Clarkston Central Labor Council

Randy Spray, President
1618 Idaho St., #102, Lewiston,
ID, 83501
208-746-7357
lewisclark-clc@cableone.net

Meets: Call for info.

No ULSTC.

Mason County Labor Council

Dale Whinery, Recording Sec.
P.O. Box 268, Shelton, 98584
360-426-5541 Fax: 360-427-4472
dalewhinery@aol.com

Meets: 2nd Monday, 5:30 p.m.,
1801 Railroad Ave., Shelton

ULSTC: Dale Whinery, S-T

**North Central Wash.
Central Labor Council**

Fred Meiner, President
27 N. Chelan Ave.,
Wenatchee, 98801
509-662-7912 Fax: 509-663-8572

Meets: 2nd Tuesday, 6:00p.m.
(same address)

ULSTC: Fred Meiner, Pres.

**Northwest Wash.
Central Labor Council**

David F. Warren, President
1700 N. State St., #202,
Bellingham, 98225
360-676-0099 Fax: 360-733-8840
dwarren@seiu925.org

Meet: 3rd Wednesday, 6:00 p.m.
(same address)

ULSTC: David Warren, Pres.

**Olympic Labor
Council**

William BoKovoy, President
P.O. Box 688, Port Angeles,
98362-0122
360-417-8964 Fax: 360-417-8964
laborPA@attglobal.net

Meets: 3rd Thursday, 7 p.m.,
416 E. 1st, Port Angeles

No ULSTC.

**Pierce County Labor
Council**

Patty Rose, Sec.-Treasurer
3049 S. 36th St., #201,
Tacoma, 98409-5801
253-473-3810 Fax: 253-472-6050
pattyrose@harbornet.com
www.pccclc.org

Meets: 1st & 3rd Wednesday,
7 p.m. (same address)

ULSTC: Patty Rose, S-T

**Snohomish County
Labor Council**

Mike Sells, Secretary-Treasurer
2812 Lombard Ave., #207,
Everett, 98201-3620
425-259-7922 Fax: 425-339-9173
snolabor@snolabor.org

Meets: 4th Wednesday, 7 p.m.
(same address)

ULSTC: Mike Sells, S-T

**Southeast Wash.
Central Labor Council**

Irene Berger, President
P.O. Box 1324, Pasco, 99301
509-539-5724 Fax: 509-547-4313
werintouch@yahoo.com

Meets: 4th Thursday, 7:30 p.m.
IBEW 112: 2637 W. Albany,
Kennewick

ULSTC: Irene Berger, Pres.

**Spokane Regional
Labor Council**

Beth Thew, Sec.-Treasurer
1226 N. Howard, Suite 103,
Spokane, 99201-2410
509-327-7637 Fax: 509-327-2331
bthew@spokanelabor.org

Meets: 4th Tuesday, 7 p.m.,
1912 N. Division, Spokane

ULSTC: Beth Thew, S-T

**Thurston-Lewis
Counties Labor
Council**

Bob Guenther, President
P.O. Box 66, Olympia, 98507
360-357-8517
gbob294@aol.com

Meets: 3rd Wednesday, 7 p.m.,
119 1/2 N. Capitol Way, Olympia

ULSTC: Bob Guenther

**Twin Harbors Labor
Council**

John Warring, President
P.O. Box 1109, Aberdeen, 98520
360-532-2643
ghalfcio@techline.com

Meets: 4th Thursday, 6 p.m.,
2728 Simpson Ave., Aberdeen

No ULSTC.

**Yakima and South
Central Counties
Labor Council**

Dale Palmer, President
507 S. 3rd St., Yakima, 98901
509-248-3894 Fax: 509-248-3894
yakimadc@bentonrea.com

Meets: 1st Thursday, 7 p.m.
(same address)

ULSTC: Dale Palmer, S-T



Washington State Labor Council, AFL-CIO CONSTITUTION

PREAMBLE

2 The establishment of this State Central
4 Body as a subordinate unit of the American
6 Federation of Labor and Congress of Industrial
8 Organizations is an expression of the desire of
10 the unions in Washington state to participate
12 fully in the achievement of the objectives of
14 the AFL-CIO as it seeks to fulfill the hopes
16 and aspirations of the working people of all
18 America.

20 We seek the fulfillment of these hopes and
22 aspirations through democratic processes
24 within the framework of our constitutional gov-
26 ernment and consistent with our institutions and
28 traditions.

30 At the collective bargaining table, in the
32 community, in the exercise of the rights and
34 responsibilities of citizenship, we shall respon-
36 sibly serve the interests of all the American
38 people.

40 We pledge ourselves to the more effec-
42 tive organization of working men and women;
44 to the securing to them of full recognition and
46 enjoyment of the rights to which they are justly
48 entitled; to the achievement of ever higher stan-
dards of living and working conditions; to the
attainment of security for all the people; to the
enjoyment of the leisure which their skills make
possible; and to the strengthening and exten-
sion of our way of life and the fundamental
freedoms which are the basis of our democratic
society.

We shall combat resolutely the forces
which seek to undermine the democratic insti-
tutions of our nation and to enslave the human
soul. We shall strive always to win full re-
spect for the dignity of the human individual
whom our unions serve.

Grateful for the fine traditions of our past,
confident of meeting the challenge of the fu-
ture, we proclaim this constitution.

ARTICLE I Name and Affiliation

This body shall be known as the Wash-
ington State Labor Council, AFL-CIO. It shall

at all times maintain affiliation with the Ameri-
can Federation of Labor and Congress of In-
dustrial Organizations in accordance with the
laws of that organization. As a chartered or-
ganization of the AFL-CIO, this body shall con-
form its activities on national affairs to the poli-
cies of the AFL-CIO.

ARTICLE II Purposes and Declaration of Principle

The purposes of the Washington State La-
bor Council, AFL-CIO, are to:

- Establish better relations among local unions in the State of Washington;
- Encourage harmonious action in matters affecting the welfare of our labor movement;
- Promote and distribute labor literature and aid and encourage a more complete labor press;
- Promote and agitate for the union label, shop card, and services;
- Better prepare ourselves to combat the enemies of organized labor;
- Assist local unions in organization and contract negotiations, whenever asked, and to have information and statistics available for all affiliated bodies to aid them in their problems;
- Bring into affiliation with the Washington State Labor Council all who are eligible, to the end that the Council shall become a powerful force to speak and act in defense and promotion of the whole body of laboring people of our state;
- Give recognition to the principle that both craft and industrial unions are appropriate, equal and necessary as methods of union organization.

Declaration of Principle
"The Concern of One is the Concern of All."

ARTICLE III Affiliates

Sec. 1. The following organizations, chartered or having membership working in Washington, shall be eligible to affiliate with

Requests shall include a proposed budget showing expected receipts and expenditures and the timing of such receipts and expenditures. Periodic reports shall be made to the State Labor Council and a complete report shall be submitted when the entire grant has been spent. Organizing and defense grants shall be used only for the purposes for which they are made. At the discretion of the Washington State Labor Council executive board, grants may be made in a series of payments. All requests for funds shall be in compliance with the constitution and laws of the section or sections involved, the Washington State Labor Council and the AFL-CIO.

Sec. 5. Should financial aid be approved by the trustees of a section and the executive board of the Washington State Labor Council, the affiliated organization receiving same shall give a complete itemized statement of expenditures monthly to the officers of the section and the executive board of the Washington State Labor Council. Upon failure to file such report, financial aid shall be discontinued until the report has been filed.

Sec. 6. In the event of a vacancy in any section office, such vacancy may be filled by the remaining officers.

Sec. 7. Any by-laws adopted by the sections shall be in conformity with the Constitution of the Washington State Labor Council, AFL-CIO.

ARTICLE X Charges and Hearings

Sec. 1. Any affiliated local union by vote of its membership shall have the right to file charges against (a) any officer of the Washington State Labor Council for violating the constitution or rules of the AFL-CIO or the Washington State Labor Council or for conduct unbecoming an officer, misappropriation of funds, malfeasance in office or neglect of duty, or (b) against any affiliated organization for engaging in conduct or a course of action hostile or contrary to the best interests of the Washington State Labor Council or contrary to this constitution.

Sec. 2. All charges shall be in writing, specifying the particular act or acts charged; shall be signed by at least two officers of the charging local union; and shall be filed with the president or secretary-treasurer of the council or with any other officer of the council, if both the president and secretary-treasurer are charged.

Sec. 3. Upon receipt of properly filed charges, the officers receiving the charges shall present them to a special meeting of the executive board, which shall be convened within one (1) month of receiving the charges. The executive board shall determine by majority vote whether or not the charges merit a hearing; provided, that the officer or officers named in the charge shall not vote.

Sec. 4. The executive board may take appropriate disciplinary action, including the suspension or removal of any officer or the suspension or expulsion of any affiliated organization found guilty of the charges by a two-thirds vote, following a hearing, of which the accused shall have been notified and furnished with a copy of the charges not less than twenty (20) days in advance of the hearing. Both the accused and the charging party shall be accorded full opportunity to be heard and to present evidence.

Sec. 5. The decision of the executive board under Section 3 or 4 shall be final and binding unless appealed to the AFL-CIO as provided in Rule 27 of the AFL-CIO Rules Governing State Central Bodies. The decision of the executive board shall remain in effect during the appeal unless reversed, modified, or temporarily stayed by the AFL-CIO.

ARTICLE XI Per Capita Taxes and Fees

Sec. 1. The revenue of the Washington State Labor Council shall be derived as follows:

(a) Effective October 1, 2000, a per capita tax of eighty (80) cents per member per month payable monthly from all local unions on full membership within the jurisdiction of the Washington State Labor Council, AFL-CIO. Per capita tax shall be due on the first of each month.

(b) Other affiliated organizations shall pay a fee of fifty (50) dollars annually, payable in advance.

Sec. 2. Local unions affiliated with the Washington State Labor Council shall pay per capita tax on their full membership as paid to their international union or shall be automatically suspended from membership; provided, where it can be shown by a local union that payment of full per capita tax will result in unnecessary hardship, the local union may petition the executive board of the Washington State Labor Council through the secretary-treasurer for exoneration from per capita tax. The

secretary-treasurer may require evidence of the local union's inability to pay. The executive board of the Washington State Labor Council may grant relief in an amount sufficient to keep the local union functioning in a proper manner.

Sec. 3. Any affiliated organization not paying its full per capita tax or fees by the twenty-fifth (25) day of the following month shall be notified of that fact by the secretary-treasurer. If payment has not been made three (3) months after notification, the delinquent organization shall be suspended from membership.

Sec. 4. Any affiliated organization suspended for non-payment of full per capita tax may be reinstated under conditions determined by the executive board.

Sec. 5. All revenue from per capita tax and affiliation fees shall be credited to the general fund except as provided herein:

(a) Three (3) per cent of the revenue from per capita tax and affiliation fees paid by local unions shall be credited to the Organization and Defense Fund to be used for organization and defense work. Revenue to the organization and defense fund shall be allocated among the sections established by Article IX in the ratio each section bears to the total membership of the State Labor Council. Twenty-five (25) per cent of the funds allocated to the various sections shall be set aside to defray the costs of operating the sections. Monies from the organization and defense funds shall be disbursed by the secretary-treasurer of the Washington State Labor Council only in compliance with Section 3, Article IX, of this Constitution. An annual report of the monies disbursed for the operation of the sections shall be submitted to the secretary-treasurer not later than July 1, covering the period of the council's fiscal year, for inclusion in the secretary-treasurer's report to the convention.

(b) Two (2) per cent of the revenue from per capita tax and affiliation fees paid by local unions shall be credited to the label promotion and education fund. One-half of the receipts of this fund shall be credited or remitted to the statewide organization charged with conducting or coordinating statewide activities in support of the union label, shop card, and union services. The balance of the fund shall be used in union educational programs, and the funding of scholarships, fellowships and internships.

Sec. 6. All other funds received by the council shall be accounted for by the secretary-

treasurer as directed by the executive board or as required by law.

ARTICLE XII Financial Practices and Audits

Sec. 1. All funds received by the Washington State Labor Council shall be immediately deposited in federally insured financial institutions. No money shall be paid out except by check bearing the signature of the president and secretary-treasurer.

Sec. 2. The executive board shall appoint an independent certified public accountant to audit the books of the council at least annually and perform such other duties as the board deems necessary. The independent certified public accountant shall report to the executive board. The board shall require an audit of the council books in the event of a change or vacancy in any full-time council office.

Sec. 3. Officers and staff shall be reimbursed for necessary and legitimate expenses, including loss of wages incurred in the performance of authorized activities for the council; however, other authorized persons may be reimbursed for expenses in accordance with guidelines established by the executive board. Reimbursement for travel when transportation is not furnished by the council shall be at the rate established for business automobile use by the Internal Revenue Service or actual transportation costs when commercial carriers are used and when no automobile is furnished by the council.

Sec. 4. The president and secretary-treasurer shall be covered by a fidelity bond in an amount to be determined by the executive board or as may be required by the secretary-treasurer of the AFL-CIO. The premium of such bond shall be paid by the Washington State Labor Council.

Sec. 5. Election board members shall receive twenty-five (\$25.00), in addition to reimbursement for lost wages and necessary expenses, for each day spent in the performance of official duties.

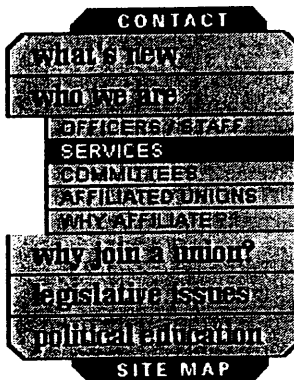
Sec. 6. The president shall submit an annual budget to the executive board setting forth anticipated receipts and expenditures. The executive board shall adopt the budget before the beginning of the fiscal year after adopting such changes as they deem necessary. Major deviations from the budget shall be reviewed with the executive board by the secretary-treasurer. No financial obligations will be incurred on behalf of the council without the consent of the

This page was last updated on
02.26.2002



Services provided by the WSLC

The Washington State Labor Council, AFL-CIO is a voluntary association of more than 600 union locals and councils across the state. The WSLC provides many services to its affiliated organizations, and also has several grant programs designed to offer specialty services to all unions and their members. Here is a summary of those services and contacts for more information:



EDUCATION -- Various members of the WSLC staff conduct shop steward training and general membership workshops on a wide range of issues. Training union activists to be union leaders of the future is critical to the strength of the labor movement, and the WSLC places a high priority on helping its affiliated unions conduct training sessions for their activists. If you are interested in requesting such workshop assistance at your union, please fill out our [Workshop/Staff Request Form](#) online.

LEGISLATIVE ACTION -- By joining together, union organizations affiliated with the WSLC can speak with one strong voice in Olympia. The reason we organize unions in the first place is because through collective action we have more power. We have all seen that important worker rights and workplace standards won at the bargaining table can be lost with the stroke of a politician's pen at the Capitol. The WSLC has fought hard to maintain those standards and to attain new ones in areas ranging from workers' compensation to prevailing wage, from unemployment compensation to workplace safety. For more information about the WSLC's legislative program, see our [Legislative Issues](#) page.

POLITICAL ACTION -- Spearheaded by Political Director Diane McDaniel, the WSLC has an aggressive program to educate and activate rank-and-file union members around the state on where political candidates stand on working people's issues. The WSLC's political education program, considered a national model by the AFL-CIO, offers instruction and assistance for unions interested in voter registration drives, absentee ballot sign-up, labor candidate training, establishing and building political action funds, and communicating with members via mail, phone and worksite leafletting. For information about the Labor 2000 program for the next election, check out our [Political Education](#) page or [contact Diane](#).

COMMUNICATIONS -- In addition to using this website and other communications tools to help our affiliated organizations disseminate information, the WSLC is available to help its affiliates plan media strategies for events and campaigns. Assistance in preparing news releases, publicizing events, and developing union newsletters/websites are all available through the WSLC. Just contact [Karen Keiser](#) or [David Groves](#) for more information.

RESEARCH -- Assistance is available to affiliated union organizations with contract and economic research. The WSLC also helps its affiliates develop legislation to address industry specific issues of concern to working people. For more information, contact Research Director [Jeff Johnson](#).

AFFILIATE AND DIRECT WORKER ASSISTANCE -- While many of the WSLC's services are designed to help union locals and organizations, much assistance is also available to rank-and-file union

EXHIBIT 5
1 of 2

members directly, including the following programs:

Community and Technical Colleges -- A grant from the Washington State Board of Community and Technical Colleges is designed to increase participation of worker representatives on colleges' general and program advisory committees. Training is also available for college and labor staff. For more information, contact Steve Ignac.

Dislocated Worker Assistance -- The WSLC has two labor liaisons for the federal Job Training Partnership Act who conduct "rapid response" activities during plant closures to make sure that the affected workers have access to the best job retraining and reemployment program opportunities available. Assistance is also available with applying for unemployment and other benefits available to these working families during their time of crisis. For more information, contact JTPA Labor Liaisons Jim Tusler and Lori Province.

Project Help -- A program, jointly administered by the WSLC and the state Department of Labor and Industries, to assist injured workers in the early and successful resolution of workers' compensation claims. Call 1-800-255-9752 or contact Project Help Claims Specialist Kairie Pierce for more information.

Substance Abuse Prevention -- A cooperative program between the WSLC and the state Department of Social and Health Services assists union leaders and members in alcohol and drug prevention, intervention and treatment. Help is also available for unions in establishing effective drugfree workplace programs and ensuring they meet state guidelines. Check out the Working Drugfree website or contact Suzanne Moreau for more information.

Welfare-to-Work Assistance -- A one-of-a-kind project to help recovering alcoholics and drug addicts in Washington state make the successful transition from welfare to work is being conducted jointly by the WSLC and IAM CARES, thanks to a grant from the U.S. Department of Labor. It is available for individuals in Pierce, Kittitas, Yakima and Klickitat counties. For more information, contact Project Director Raymond Mason.

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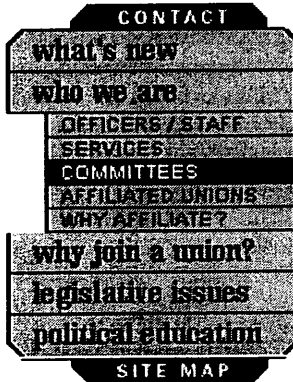
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This page was last updated on
07.08.2002



Standing Committees

All affiliated organizations are invited to nominate members to serve on the Washington State Labor Council's standing committees. These are active, high-profile committees that have developed national reputations. Nominees must be members of an affiliated local union. Committee members may be reappointed.



Being appointed to a Washington State Labor Council standing committee is both an honor and an obligation. Members are expected to participate in committee meetings and programs. Committee members will have an opportunity to meet members of other unions about issues of concern to organized labor and help develop policy recommendations for the WSLC. If your organization is interested in submitting a nomination, please call contact Janet Hays for a nomination form.

The WSLC standing committees are as follows (click on each to see a description, committee news and a list of members):

Community Services
Economic Development and Transportation
Education, Training and Apprenticeship
Initiative Strategy
Political Action
WISHA Monitoring and Industrial Insurance
Women's

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LAW OFFICES OF JAMES D. OSWALD

1218 THIRD AVENUE, SUITE 1500
SEATTLE, WASHINGTON 98101-3021
TELEPHONE (206) 264-8558
FACSIMILE (206) 233-9165
JIMOSWALDLAW@CITYLINQ.COM

Hand Delivered



September 29, 2004

Susan Harris, Assistant Director
Public Disclosure Commission
711 Capitol Way, Room 206
P. O. Box 40908
Olympia, WA 98504-0908

Re: Lund Complaint against Washington State Labor Council

Dear Susan:

Although Mr. Lund's Complaint was addressed to the Attorney General, as your office has been asked to investigate, I am directing this response to your attention.

INTRODUCTION

As you know, I represent the Washington State Labor Council. For several years, the WSLC has communicated extensively with members of affiliated unions about important labor issues, including federal and state elections. This effort is called "Labor-Neighbor," and has been the subject of extensive press coverage, in Washington State and elsewhere.

The basic tenet of "Labor-Neighbor," – that the WSLC, and central labor bodies of the AFL-CIO in other states may communicate without limitation with members of unions affiliated with the AFL-CIO – is endorsed by long-standing regulations by the FECA. I have made extensive inquiries, and have not learned of a single state that does not include communications from a state central labor body under the rubric of internal communications.

In his complaint, Mr. Lund not only asks that the Public Disclosure Commission adopt an interpretation of "member communication" that is narrower than that adopted in any jurisdiction. He also asks that the Attorney General prosecute the WSLC based on this unprecedented interpretation. The Commission should reject this bald effort to interfere in the right of the WSLC to exercise its acknowledged constitutional right to communicate with the members of affiliated unions.

EXHIBIT 7

1 of 15

ADMITTED IN WASHINGTON AND ALASKA

Much of the balance of the complaint is simply "make weight" allegations, supported by inaccurate speculation regarding the activities of the WSLC. For the reasons discussed, each element of the complaint against the WSLC should be dismissed.

For convenience, I will respond to the allegations in the order in which they were made.

I. Internal Member Communications by the WSLC Are Not Independent Expenditures Under the PDA

The entire presentation under Section I of the complaint is based on two false premises. The first is that the communications from the WSLC are directed to the "public." In fact, all of the communications discussed in Section I were directed exclusively to the households of members of unions affiliated with the WSLC.

The second false premise is that the expenditures are "independent expenditures" as that term is used in the statute. As there is no requirement that internal communications be done without the knowledge or collaboration of the candidate, the WSLC does not attempt to maintain the separation from the candidate required for independent expenditure. Whether such communication occurred with respect to a particular candidate has not been a matter of concern for the WSLC, as the activity was not reportable, regardless of whether the WSLC and the candidate were aware of each other's activities or plans.

The definition of contribution clearly excludes internal communications. Therefore, to the extent that the WSLC did not maintain the arms-length relationship required for an independent expenditure, expenses for internal communication would not constitute a contribution.

Even if the statute is interpreted to include internal member communications under the term "expenditure," the WSLC would have no reporting obligation for member communications undertaken with the knowledge of the candidate. Since the WSLC is not a political committee, it has no reporting obligation for internal member communications that are not "independent." Since the expense of internal member communications is not a "contribution," the candidate would have no obligation to report it.

A statute should not be interpreted in a way that leads to absurd results. But it would be absurd to conclude that if internal member communications were not coordinated with a candidate, they would constitute reportable independent expenditures, but if they were coordinated with the candidate, no reporting would be required.

If the drafters of the PDA intended to require reporting and disclosure of internal communications, the statute would include some mechanism for making such reports. It does not. In fact, although the FECA provides for informational reporting by entities expending more than a stated amount in internal member communications, the PDC has no comparable requirement.

Therefore, the most logical interpretation is that the drafters of the PDA intended that the exclusion of internal member communications from the definition of "contribution" would result in no reporting of internal member communications, regardless of whether they were coordinated with the candidate.

1.(a)-(d), and (g), 2, 3, and 4

All of that activities described are limited to communicating to the households of members of unions affiliated with the WSLC. In addition, because these internal communications are not necessarily undertaken without consultation with the candidate, the rules regarding independent expenditures would be inapplicable.

1.(e) To the extent that the WSLC has provided things of value to a pending ballot initiative campaign, those contributions have been reported.

1.(f) Nothing in the PDA requires reporting the cost of recruiting and training potential candidates, before the individual makes the decision to seek office. There is no allegation that the WSLC made any unreported contribution to Mr. Hasegawa after he decided to run. In fact, as the interview with Diane McDaniel will confirm, the WSLC did not provide training to Mr. Hasegawa, so there is no conceivable factual basis for the allegation.

II. The WSLC Has a Statutory and Constitutional Right to Engage in "Internal Political Communication" with the Members of Affiliated Unions

A.1. The WSLC Is a Labor Organization Under Analogous Federal Law

As was discussed in the September 22, 2004 response to specific questions posed by Susan Harris, the communications by the WSLC are properly regarded as internal member communications under well-settled federal law. There is nothing in the PDA to suggest that the protections for internal member communications in the PDA are intended to be any narrower than the comparable provision in the FECA.

As was discussed in the prior correspondence, the complaint relies on regulations under the Labor Management Reporting and Disclosure Act, the single federal law that does not treat the AFL-CIO as a labor organization. It ignores the Norris LaGuardia Act, the NLRA, the LMRA, and, most importantly, the FECA, all of which treat the AFL-CIO, and its central labor bodies as labor organizations. It also ignores federal tax law, under which the WSLC is a tax exempt "labor organization" under IRC §501(c)(5).

As was discussed in the September 22 letter to Ms. Harris, the structure of the very regulation relied upon by the complainant reflects that the general rule is that the term "labor organization" includes central labor bodies, such as the WSLC. The LMRDA regulation achieves a contrary result only by inserting, after the definition that is used elsewhere in federal law, and is uniformly interpreted to include central bodies such as the WSLC, a final phrase that explicitly excludes central bodies. As there is no definition

of "labor organization" in the PDA, the reasonable inference is that the drafters contemplated that it included central labor bodies. If the drafters intended the unique definition adopted in the LMRDA, they would have explicitly adopted that definition.¹

Moreover, established rules of statutory interpretation require that the PDC utilize the FECA definition of "labor organization." Interpretations of a federal statute that relates to the same subject matter as a state statute are properly used in interpreting the state statute. *Albertson's Inc. v. Wn. Human Rights Comm.*, 14 Wn. App. 697, 700 (1976).

The rule stated in *Albertsons* is especially appropriate here. Both the FECA and the PDA address reporting and disclosure of election-related activities. The FECA was passed before the PDA. The PDA utilized the same term, "labor organization," that was included in the FECA. FECA regulations established that the term "labor organization" encompassed labor federations and central labor bodies of those federations. That the PDA provided no definition of the term virtually compels the conclusion that the drafters intended that it have the same scope as the same term in the federal law addressing the same issues.

II. A.2,3 Communication Between WSLC and Members of Affiliated Unions Is Internal Member Communication

The same reasoning compels the result that under the PDA, the WSLC may properly communicate with the members of its affiliated unions. Regulations under the FECA explicitly permit labor federations to communicate directly to the members of affiliated unions:

... members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. (Emphasis added)

11 CFR §~~114.1(d)(5)~~

100.134(6)(h)

Thus, under federal election law, the right of a "labor organization" to communicate with its members has been conclusively interpreted, by the very agency charged with enforcing that law, as encompassing the right of the AFL-CIO (and its state and local central bodies) to communicate with members of affiliated unions.

Nothing in the PDA suggests that the drafters of the state statute intended the "internal communication" rights of "labor organizations" to have a narrower scope under state law.

¹ Complainants cannot rely on any inference from the sequence in which the various statutes were adopted. The LMRDA was passed in 1959, whereas the FECA was passed in 1971. IRC §527(f) became law well before 1990. It appears that the language regarding internal communications was added to the statute in 1992, as part of Initiative 134. Therefore, the FECA was not more analogous, but also the more recent, than the LMRDA.

Therefore, the rule of interpretation in *Albertson's Inc. v. Washington Human Rights Commission*, 14 Wn. App. at 700, supports the conclusion that when the drafters of Initiative 134 exempted communications by a labor organization to its members, they intended that rule to have the same scope as the same rule under the FECA – namely, that internal communications encompassed communications from a central labor body to members of affiliated unions. And the fact that the drafters have raised no objection during the past 12 years, despite extensive press coverage of WSLC communications with union members, supports that conclusion.

In addition, to limit the right of the AFL-CIO to communicate with members of affiliated unions would present grave constitutional questions. In *U.S. v. CIO*, 335 U.S. 106, 107 (1948), the communication at issue was a newspaper distributed by the CIO to the members of its affiliated unions. That is, it was precisely the type of communication challenged in the instant complaint. In that decision, the Court indicated that constraints on such communications would raise “grave constitutional” issues. Thus, the decision in *U.S. v. CIO* implicitly holds that the right of unrestricted internal communication applies to communications from a labor federation to members of affiliated unions.

II.A.4. Right to Internal Communication Does Not Equate to Having Single Contribution Limit

The complainant offers no legal basis for the assertion that if the WSLC has the right to communicate with members of a union, the WSLC and all affiliated unions share a single contribution limit. As you know, in 1992, well before the Commission issued the affiliation rules currently before the Supreme Court, the Assistant Attorney General for the PDC advised the WSLC that it did not share a single contribution limit with its affiliates.

In addition, the WSLC is not an entity covered by RCW 42.17.660, which limits contributions by “controlled entities.” RCW 42.17.660 does not use the term “labor organization,” which encompasses the WSLC, in light of the settled meaning under the FECA. Instead, it uses the term “labor union.” There is no allegation that the WSLC is a “labor union.” Therefore, the predicate for applying RCW 42.17.660 to the WSLC is absent.

It is not anomalous to permit internal communications to members of affiliated unions, but not bind the WSLC to a single contribution limit with those unions. In fact, the FECA does precisely that.²

² Even though the FECA imposes affiliation on a broader basis than the PDA (and even the Court of Appeals decision currently under review would not have made the affiliation rules under the PDA any broader than the FECA rules), it permits communication between central labor bodies and the members of affiliates without imposing a single contribution limit on the central labor body and the affiliates.

II.B. The WSLC Does Not Conduct Internal Communications With Members of Non-Affiliated Unions

The complaint provides no factual basis for its assertion that the WSLC communicates with members of unions that are not affiliates. Even if the directory of unions published by the WSLC included contact information for the offices of labor organizations that were not affiliated, that would not indicate that the "Labor-Neighbor" program included members of those non-affiliated unions.

In fact, as the interview with Diane McDaniel will establish, the Labor-Neighbor program is directed exclusively to members of unions affiliated with the AFL-CIO.

II.C. The WSLC Updates Lists Every Six Months to Assure Communications Are to Union Members

The Complaint provides no basis whatsoever for the allegation that WSLC communicates with persons who are no longer union members. In fact, as interview with Diane McDaniel, and the related exhibits, will establish, the WSLC assiduously polices the lists of union members to assure that persons who are no longer union members are deleted from the list. This review, which is conducted twice yearly, assures that the vast majority of persons contacted are current union members.

In addition, the PDC's own Interpretation of the rule regarding internal communications of membership organizations requires only that the communication be sent "primarily" to members, not that no non-member receives the communication. (PDC Interpretation 95-04). The same interpretation states that a communication does not lose its "internal" character if distribution to non-members is "incidental and isolated." Here, the efforts of the WSLC are easily sufficient to establish that any receipt by non-members is incidental.

Even if retirees were included on membership lists provided by some unions, federal regulations, at 11 CFR §100.134(g), acknowledge the propriety of engaging in internal communications with long term union members who have retired. PDC Interpretation 95-04 acknowledges the relevance of federal regulations to determining membership status.

Therefore, both because the WSLC takes all reasonable steps to assure that it is communicating only with active employees who are union members, and because federal regulations establish that it is often appropriate to treat union retirees as members, the WSLC communications are properly regarded as internal member communications.

Incidentally, the complaints allegation that individual union members do not know they are part of the AFL-CIO is patently frivolous. The logo, and the web page of virtually every union affiliated with the AFL-CIO displays the legend "AFL-CIO," immediately after the union's name. (From www.wslc.org, click on "who are we," and go to "affiliated unions.")

II.D. The Right to Communicate with Members Includes Communication to the Households of Members

The complaint asserts that the WSLC attempts to communicate with the spouses and voting age children of union members. The complaint does not dispute that the WSLC communicates exclusively to the households of union members. As noted above, the PDC has already determined that incidental communication with non-members would not defeat the internal character of a communication.

While it is true that the PDA refers only to communications with members, whereas the FECA explicitly contemplates communications with the family members of union members, there is no legislative history or other evidence that the PDA was intended to prevent unions from communicating with union households.

Moreover, it would be entirely impractical to forbid a labor organization from communicating with family members residing in the same household as the member. Brochures mailed to the member's home will be seen by family members. Flyers left on the door knob will be seen by whoever first opens the door, whether it is the member, or another household member. When a canvasser goes to the home of the union member, it is not realistic to require that other family members leave the room in order to preserve the internal character of the communication.

As to telephone communications, even if the WSLC conveys its message to a person other than the member, it is in the nature of leaving a message for the union member, and is incidental to the attempt to communicate with the member.

Because the federal regulations clearly permit communications with family members, to impose a contrary rule would create extraordinary practical problems. A canvasser would be permitted to speak to the entire family about the presidential race, but would be required to exclude family members when state races were discussed. In live telephone calls, the caller could discuss both federal and state races with the member, but would have to limit the conversation to federal races if another family members answered. Automated telephone calls regarding state races would be impossible, as there would be no way to know whether the listener was the member, or another family member.

If the Commission were to believe that the PDA should be interpreted to permit only telephone contact with the member, to advance that interpretation in an enforcement action violates due process. The WSLC, and all other organizations that engage in internal communications, have a right to advance notice that the PDC will interpret its statute more narrowly than the analogous federal statute.

Please understand that the WSLC adamantly asserts that the Commission should not limit internal communications to the member, while excluding the member's household. But if the Commission chooses to explore that option, it must do so by formal rule making,

where all interested parties can address the profound problems created by the interpretation advanced in the complaint.

III. The WSLC Does Not Exceed Contribution Limits, Because It Does Not Share a Single Limit With Its Affiliates

This issue is addressed under II.A.4 above.

IV. No Public Funds Were Used to Affect Elections

The declaration of Bernice Vance, which was provided with my September 22, 2004 letter to Susan Harris, establishes that funds from each grant is placed in a separate account, and used solely for the purpose. Therefore, there is absolutely no basis for the speculative assertions in Section IV.

V.(1)-(4) The WSLC Is Not a Political Committee

The complaint cites the recent decision in *Evergreen Freedom Foundation v. WEA*, 2002 Wash. App. LEXIS 3408, but fails to utilize the analytic framework adopted in that decision.

The Definition of Political Committee Is Subject to a Rule of Reason to Avoid Needless Disclosure of Non-political Activities

The *EFF v. WEA* analysis begins with two critically important observations:

First, the definition of political committee was "not meant to indiscriminately include all those who seek to influence government by their support or opposition to candidates or ballot measures." (citing *State v. Evans*, 86 Wn.2d at 506-507)

Second, a finding of political organization status results in massive disclosure to public view of the records of an organization. In the courts words, a finding of political committee status would require a labor organization "to file detailed reports to the PDC of all bank accounts, all deposits and donations, and all expenditures, including the names of each person contributing funds."

The WSLC Cannot Be a Political Committee Because It Does Not Receive Contributions

In *EFF v. WEA*, the court stated that an organization is required to register and report as a political committee only if evidence establishes BOTH "that one of the organization's primary purposes was electoral activity during the period in question, AND the organization received political contributions as defined in the Act." (emphasis added). Because the WSLC does not receive political contributions, it cannot be a political committee under the definition established

In light of the conjunctive definition adopted in *EFF v. WEA*, since there is a total absence of evidence that the WSLC received political contributions during the period in question, there is no need to even examine whether a primary purpose of the organization was to make expenditures for electoral activities. But, even if expenditure activity were analyzed, and internal communications were included as expenditures, making expenditures to affect elections would not be a primary purpose of the WSLC.

The WSLC is supported by per capita payments from affiliated unions, and by various special purpose grants from governmental entities. As the declaration of Bernice Vance reflects, the per capita is placed into the general fund of the WSLC, and is expended in the discretion of the leadership for WSLC activities, including transfers to the WSLC's registered political committee and support for member communications.

The complaint asserts that the AFL-CIO increased its per capita to support activities related to the presidential election in 2004. However, as the interview with Diane McDaniel will establish, WSLC receives per capita directly from the affiliates, and has not received a portion of the per capita received by the AFL-CIO.

Because the WSLC's Activities Are in Pursuit of General, Non-Electoral Goals, It Is Not a Political Committee

The *EFF v. WEA* decision holds that a multi-factor analysis is required to determine whether it is a political committee.³ The WSLC expends only a small minority of its budget on electoral activity. And consideration of the factor identified in *EFF v. WEA* leaves no doubt that the organization as a whole is not a political committee.

In *EFF v. WEA*, the court provided a nonexclusive list of analytical tools a court may use when evaluating the evidence, which includes: (1) the content of the stated goals and mission of the organization; (2) whether the organization's actions further its stated goals and mission; (3) whether the stated goals and mission of the organization would be substantially achieved by a favorable outcome in an upcoming election; and (4) whether the organization uses means other than electoral political activity to achieve its stated goals and mission.

Under *EFF v. WEA*, the fact finder must examine "the stated goals and mission of the organization and whether electoral political activity was a primary means of achieving the stated goals and mission during the period in question." In this case, that examination

³ It is possible to read *EFF v. WEA* to state that determination of political committee status need not consider these factors if a majority of an organization's efforts are directed to electoral politics. If that reading were adopted, it would not change the result. The interview with Diane McDaniel will confirm that only a small minority of the overall WSLC budget is devoted to electoral politics, whether or not grant income is considered. Of course, grant income is properly considered, as the WSLC regularly supplements grant income to achieve the goals of the grant-supported activities, all of which are consistent with the WSLC's stated purposes.

confirms that, while electoral activity, broadly defined, is an aspect of the WSLC's overall program, it is not a primary purpose of the organization under the court's test.

The WSLC's Stated Goals and Purposes Are Far Broader than Electoral Politics

The WSLC Constitution, at Article II, sets out the "Purposes and Declaration of Principle" of the organization. The purposes, quoted *verbatim* from the Constitutions, are as follows:

- Establish better relations among local unions in the State of Washington;
- Encourage harmonious action in matters affecting the welfare of our labor movement;
- Promote and distribute labor literature and aid and encourage a more complete labor press;
- Promote and agitate for the union label, shop card, and services;
- Better prepare ourselves to combat the enemies of organized labor;
- Assist local unions in organization and contract negotiations, whenever asked, and to have information and statistics available for all affiliated bodies to aid them in their problems;
- Bring into affiliation with the Washington State Labor Council all who are eligible to the end that the Council shall become a powerful force to speak and act in defense and promotion of the whole body of laboring people of our state;
- Give recognition to the principle that both craft and industrial unions are appropriate, equal and necessary as methods of union organization.

These statements of purpose are followed by this simple Declaration of Principle: "The Concern of One is the Concern of All."

Thus, as to the first consideration listed by the *EFF v. WEA* court, the stated goals and mission of the WSLC relate to generally advancing the interests of working families, and the cooperation and communication among labor organizations.

These are not merely electoral goals stated in non-electoral terms. They relate to increasing the unity and strength of organized labor, and effort that has been ongoing for decades. While the outcome of individual elections may generate a more or less hostile environment for organized labor, the purposes of the WSLC contemplate strengthening organized labor, whatever the outcome of the electoral process.

The WSLC's Actions Further Its Stated Goals

The second consideration is whether the organization's actions further its stated goals. The various reports included in the Partial Proceedings of the 2002 Convention of the WSLC confirm that the WSLC devotes significant effort to the purposes outlined in its Constitution.

Significant efforts are devoted to "harmonious action in matters affecting the welfare workers. These include:

- Project Help, which aids injured workers in dealing with the Industrial Insurance System, including "Labor/management facilitation to prevent industrial accidents (Report of Vicky Smith, at page 16-17)
- Education and Safety, which included defending the Ergonomics Rule, and engaging in Workforce Training, to prevent accidents (Report of Randy Loomans, at page 19 -20);
- Welfare to Work, which aids persons with various personal problems in their efforts to return to the workforce (Report of Raymond Mason, at page 20-22);
- Substance Abuse Labor Liaison, who works to assure that members with substance abuse problems are able to obtain needed treatment and rehabilitation (Report of Suzanne Moreau, at page 23-24)
- WIA Labor Liaisons, who support retraining and other support efforts for workers who are dislocated by workplace closures (Reports of Jim Tusler and Lori Province, at pages 9-11);

The WSLC's goals to "become a powerful force to speak and act in defense and promotion of the whole body of laboring people of our state," and to "better prepare ourselves to combating the enemies of organized labor" take several forms. They include:

- Efforts of the Community and Technical College Liaison, who interacts with community college training programs to assure that technical educators understand relevant labor issues (Report of Steve Ignac, pages 22-23);
- Research and Organizing, which both provides assistance to unions, such as the United Farm Workers, who are appealing to the public for support in their organizing efforts, and lobbies in support of legislation favorable to working families. (Report of Jeff Johnson, at pages 12-13);
- Lobbying the legislature for favorable legislation. Several members of the WSLC staff are registered lobbyists, including President Rick Bender, Secretary Treasurer Al Link, Research Director Jeff Johnson, and Political Director Diane McDaniel. (See Annual L-3 Reports filed by WSLC)

The WSLC's goal to "establish better relations among local unions in the State of Washington," as well as its goal to "[p]romote and distribute labor literature and aid and encourage a more complete labor press," are advanced by the WSLC's Communications and Publications departments. The reports of Karen Keiser (pages 8-9), and D. Nolan Groves describe the monthly newsletters from the WSLC to local unions, communications to union stewards, and distribution of labor-related news to radio and TV outlets in the state.

To summarize, the WSLC has long-standing goals that are not related to electoral activity, and it engages in very substantial activities to advance those goals. Those goals remain in place, and those activities continue, regardless of the outcome of any one

election. These activities consume the full working time of well over half of the WSLC staff. This weighs heavily against a finding that electoral activity by the WSLC converts the entire Council into a political committee.

Electoral Activity Is Merely One Way the WSLC Advances Its Purposes

EFF v. WEA holds that when an activity is "merely one means the organization uses to achieve its legitimate broad nonpolitical goals, electoral activity cannot be said to be one of the organization's primary purposes." That statement perfectly describes the WSLC's participation in the electoral process.

The purposes of the WSLC, include being a "force to speak and act in defense and promotion of the whole body of laboring people," and "better prepare ourselves to combat the enemies of organized labor." One way to further these purposes is by electoral activity. The WSLC engages in two forms of activity related to elections.

The first is contributing to candidates. Through its registered PAC, the WSLC makes contributions to candidates, all of which are duly reported. The WSLC submits that the activities of its Political Committee, which is registered with the PDC, should not be included in determining whether the organization as a whole is a political committee. But even if it were, the total alleged contributions are roughly \$250,000 over four years, which is a tiny fraction of the overall expenditures by an organization that employs well over twenty full time employees, and maintains offices in Olympia and Seattle, as well as conducting a variety of conventions, meetings, and trainings for its affiliates.

The second is communication with union members through the Labor-Neighbor Program. During the election season, the WSLC's Political Director devotes appreciable efforts Labor-Neighbor. In Labor-Neighbor, the WSLC sends mailings to members of affiliated unions, does home visits to those members, and telephones their homes.

But that electoral effort does not interrupt the ongoing work of the WSLC. It occupies the majority of the working time of only three employees (including Ms. McDaniel's administrative assistant), out of a staff of over twenty employees. The financial expenditure for publications and mailing is remarkably small, because the work is done in-house, with existing employees. The actual face to face, or telephone, contact, is performed largely by volunteers.

Whether measured in terms of staff time, dollars expended, or impact on other missions of the organization, Labor-Neighbor, even when coupled with direct political contributions, is only a small part of the overall activities of the WSLC. Moreover, the WSLC's political work is entirely consistent with the overall purposes of the organization, and is merely one of many ways in which the WSLC works to advance the interests of working families.

In short, it would be entirely inconsistent with *EFF v. WEA* for the Commission to conclude that electoral activities convert the WSLC into a political committee.

V.(5) The WSLC Has Not Raised Per Capita to Support Electoral Expenditures;
Whether the AFL-CIO Has Done So in 2004 Is Irrelevant, as the WSLC
Has Received No AFL-CIO Funds

The allegation that the WSLC has raised dues to mobilize union household members is simply false. Per capita payments to the WSLC were not increased in connection with the 2004 elections. If it were true that per capita payments to the AFL-CIO were increased in connection with the 2004 election, it is irrelevant. The interview with Diane McDaniel will establish that no part of the allegedly increased per capita payments to the AFL-CIO were passed back to the WSLC.

V.C. Grant Funds Are Properly Included in Determining the Overall Activities
of the WSLC

The complaint alleges, without citation to authority, that grant funds should be excluded when determining the percentage of the WSLC used for political purposes. There is no logical basis for that assertion. The activities conducted with public funds advance the interests of workers, and so are consistent with the goals of the WSLC. That the WSLC receives supplemental public funding to achieve certain specific goals that correspond with the needs and goals of the broader society does not mean that the activities are not part of what the WSLC does. As will be explained by Diane McDaniel, the grant activities are so integrated into the overall operations of the WSLC that the WSLC supplements grant funds to achieve the goals supported by the grants.

VI. **SIC PAC is Not an Illegally Hidden PAC, but a Free-Standing PAC
Created and Run by WSLC Staff**

The declaration by Bernice Vance establishes that SIC PAC is in no way a hidden PAC. It is a PAC created by the staff of the WSLC because they were dissatisfied with the performance of the PAC sponsored by their own union, the OPEIU. It is governed by the staff, with no input from the Political Director of the WSLC, and little participation by the officers of the WSLC. Most importantly, the contribution pattern of SIC PAC is unrelated to the contribution decisions by the WSLC's PAC.

The complaint provides no authority whatsoever for its assertion that a PAC supported by employees of an organization is affiliated with the PAC of the organization. There is nothing to that effect in the PDC WACs.

That the largest contributors to SIC PAC were the two highest paid employees of the WSLC is irrelevant. The key fact is that the officers of WSLC have no disproportionate control over SIC PAC. In fact, the declaration by Bernice Vance establishes that the two

officers of WSLC have disproportionately little influence on the PAC for the simple reason that they do not attend the meetings of the PAC, where contribution decisions are made.

VI.B. Because SIC-PAC Is Not a Creature of WSLC, They Are Not Subject to a Single Contribution Limit

Because SIC-PAC and the WSLC PAC are not subject to a single contribution limit, it is irrelevant that in a few isolated races the combined contributions from the two entities exceeded the statutory maximums.

VI.C. Abbreviated Reporting Allegation

This submission is made on behalf of the WSLC. The WSLC is not aware of any notice to SIC-PAC that it is subject to a 45 day letter. The following brief comment does not constitute a response by SIC-PAC, or a waiver by SIC-PAC of its right to respond to any allegations.

If SIC-PAC exceeded the limits for abbreviated reporting – and WSLC is advised by PDC staff that, if it did, the error was corrected long ago – the error had no significant impact on any election. This should be distinguished from a similar error by a candidate for office, which could affect the strategic decisions of an opponent. Therefore, the alleged offense is of a type that would normally be brought to a brief enforcement hearing, not referred to the Attorney General for prosecution.

VII. There Is No Conceivable Basis for the Allegation that the WSLC Improperly Earmarked Contributions

The allegations in Section VII of the complaint have no basis whatsoever in fact or law.

That a PAC created by WSLC staff members contributed to certain candidates does not make those contributions “earmarked” contributions from the WSLC.

The PDA specifically permits contributions to legislative district committees, as well as the candidates in the affected legislative districts. There is no evidence that the WSLC earmarked contributions to legislative district committees for specific candidates. The rank speculation by the complainant, unsupported by any facts, does not warrant further discussion, or action by the Commission.

VIII. The WSLC Does Not Use Non-Member Fees to Affect Elections

The present state of the law is that RCW 42.17.760 is unconstitutional. But, even if it were valid, there is no evidence that the WSLC uses agency fees for political expenditures of any type.

To the contrary, the WSLC Constitution directs that affiliated unions make per capita payments based on their "members." The Secretary Treasurer of the WSLC is not aware of any affiliate that makes per capita payments on non-member agency fee payers.

Because there is no factual basis for Section VIII, the Commission should refuse to take further action regarding this allegation, regardless of whether the Supreme Court ultimately determines that Section 760 is enforceable.

CONCLUSION

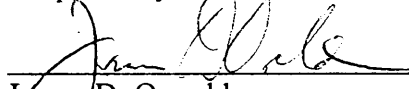
The instant complaint is a bold attempt to disrupt an entirely legal, and highly effective, program by the WSLC to communicate to provide members of its affiliated unions with critically important information regarding elections.

Of course, in a federal election year, the WSLC's communications address both federal and state issues. Every aspect of the WSLC program is manifestly proper under federal law. There is not a shred of law in Washington State that would alter that result under State law.

The minor variances in language between federal and state law do not warrant adopting more restrictive rules under state law, particularly when internal communication is a central aspect of the constitutionally protected right of free association.

The WSLC submits that the complaint should be dismissed in its entirety. If the Commission believes that the complaint raises issues that it has previously not considered, the appropriate response is for the Commission to conduct rule making to address any perceived gaps in the statute. Under no circumstances would it be appropriate for the Attorney General to initiate prosecution on any aspect of the complaint.

Respectfully submitted, this 29th day of September, 2004.


James D. Oswald
Attorney for Washington State Labor Council

Who'll represent YOU in the State Senate?

Craig
Pridemore

DEMOCRAT

A Vancouver native, Craig is serving his 2nd term as Clark County Commissioner. Now, he's running for State Senate.



Don
Carlson

REPUBLICAN

Don has been a State Senator for four years and was a State Representative for eight years prior to that.



Pridemore will fight to **bring back basic health care** for low-income families. Plus, he believes **businesses should be accountable for special tax breaks** and be required to demonstrate they help **create jobs**.

Health Care

Carlson voted to **cut 40,000 children in low-income**

families off health care while preserving every single special-interest tax loophole.

(SB 5404, '03) He then voted for even **more corporate tax breaks**. (HB 2546, '04)



Pridemore **supports our state minimum wage law** and opposes efforts to let employers pay sub-minimum wages to people who earn tips.

Minimum Wage

Carlson twice **voted to freeze the state minimum wage** and

end the annual cost-of-living adjustments that voters approved by a 2-to-1 margin. (SB 5697, '03-04)



Pridemore **opposes efforts to weaken overtime pay standards** at the state and federal levels. He understands that many working families count on overtime pay to meet basic needs.

Overtime Pay

Carlson voted to **enforce President Bush's new**

overtime pay cuts here in Washington by making state wage-and-hour laws conform with federal standards. (SB 5462, '03)



Pridemore supports efforts to **consolidate prescription drug purchases and negotiate lower prices** as other states have done. He says not doing so is a waste of taxpayer money.

Lower Drug Costs

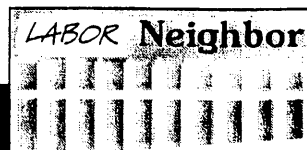
Carlson sided with the pharmaceutical industry

lobbyists and **voted against letting the state negotiate lower prescription drug prices** by buying in bulk. (SB 6368, '02)



That's why YOUR UNION supports **Craig Pridemore**

YOU DECIDE. Please VOTE on Nov. 2nd.



A message from rank-and-file union members volunteering in the Labor Neighbor prog and the Washington State Labor Council. Visit www.wslc.org for more informatio

EXHIBIT 8
Pg 1 of 4

Who'll represent YOU as Governor?

Christine
Gregoire

DEMOCRAT

Gregoire has earned national acclaim for taking on powerful interests during her 3 terms as Washington's Attorney General.



Dino
Rossi

REPUBLICAN

A former State Senator, Rossi calls himself "compassionate" but has an ultra-conservative, partisan 6% labor voting record.



Gregoire wants to **expand assistance for families that can't afford health care**. She says special-interest tax breaks should be audited, and those that don't create good jobs or have social value should be repealed.

HEALTH CARE & TAX LOOPHOLES

Rossi wrote a state budget that **cut more than 40,000 children in low-income**



families off health insurance, while renewing and expanding special-interest tax loopholes that lack accountability for job creation. (SB 5404, '03)



With her "Healthy Washington" proposal, **Gregoire has a plan to lower drug prices** by joining other states' purchasing pools and allowing the importation of Canadian drugs. (www.christinegregoire.com)

PRESCRIPTION DRUGS

Siding with pharmaceutical industry lobbyists, **Rossi opposed allowing the state**



to negotiate lower drug prices by consolidating drug purchases and buying in bulk. (SB 6368, '02)



Gregoire strongly **OPPOSES President Bush's overtime pay take-away**. She vows to protect and enforce state wage-and-hour laws that prevent Bush's new rules from harming workers who earn overtime pay in Washington state.

OVERTIME PAY

Rossi voted to **ENFORCE President Bush's overtime**



pay take-away in our state, exempting some 8 million workers nationwide. Although he cast the deciding Senate vote to end state wage-and-hour protections, the bill ultimately failed. (SB 5462, '03)



Gregoire supports the state **minimum wage law** as it was approved 2-to-1 by voters. She opposes sub-minimum wages for workers who earn tips.

MINIMUM WAGE

Rossi cast the deciding vote to **lower the state minimum**



wage by ending annual cost-of-living increases. His efforts ultimately failed. (SB 5161, '03)

That's why YOUR UNION supports **Christine Gregoire**



YOU DECIDE. Please **VOTE** Tuesday, Nov. 2nd

A message from the Washington State Labor Council. Visit www.wslc.org for more information

Who'll represent YOU in the State Senate?

Laurie
Dolan

DEMOCRAT

Dolan worked for 31 years serving Spokane Schools as both a teacher and an administrator.



Brian **Murray**

A Gonzaga student, he was appointed to serve as your State Senator last year.

REPUBLICAN

Brad **Benson**

With an 11% labor voting record as a Representative, he's running for Senate.



Dolan says responsible employers and **taxpayers shouldn't have to subsidize employers like Wal-Mart** that don't provide affordable health care. She backs the Health Care for Washington Workers bill to address the issue. (HB 2785, '04)

☒ Health Care ☐

Murray voted to **legalize stripped-down health plans** excluding basic care like mammograms and children's immunizations. (ESHB 2460, '04)
Benson **refused to support the Health Care for Washington Workers bill**. (HB 2785, '04)

Dolan **supports our state minimum wage law** that Washington voters approved by a 2-to-1 margin. She **opposes "tip credits,"** which allow employers to pay sub-minimum wages to people who earn tips.

☒ Minimum Wage ☐

Murray voted to **freeze the minimum wage** and end the annual inflationary adjustments approved by voters. (SB 5697, '04)
Benson **co-sponsored a bill creating a sub-minimum wage** for people who earn tips. (HB 1973, '01)

Dolan wants to **restore cuts in basic health care** for low-income families. Plus, she believes **businesses should be accountable for special tax breaks** and be required to demonstrate they help create jobs.

☒ State Priorities & Tax Loopholes ☐

Benson voted to **cut 40,000 kids in low-income families off health care** while preserving all corporate tax loopholes. (SB 5404, '03)
Murray and Benson then voted for **more corporate tax breaks**. (HB 2546, '04)

Dolan says **taxpayer-funded state services should create jobs here in Washington**. She supports a task force to investigate offshoring of state government contracts. She also believes that providing incentives to keep jobs in Washington state make sense.

☒ Promoting Jobs in Washington ☐

Benson voted **against even studying how often our state government hires offshore contractors** for public services. (HCR 4419, '04)
Murray voted **against promoting local hiring** by targeting tax incentives to employers that keep jobs in the United States. (SB 6239 Poulsen am., '04)

That's why YOUR UNION supports **Laurie Dolan**

LABOR Neighbor

YOU DECIDE. Please VOTE in the Primary, Sept. 14.

A message from rank-and-file union members volunteering in the Labor Neighbor program and the Washington State Labor Council. Visit www.wslc.org for more information.

EXHIBIT 8

3 of 4



Education and Health Care, or Corporate Tax Loopholes?

These days, corporate lobbyists have more control over our state government than ever. The latest state budget is a perfect example. **Rather than close one single corporate tax loophole, legislators voted to cut 40,000 kids in low-income families off health care.** (SB 5404, 2003) In fact, while salaries were frozen for teachers and other public employees, MORE tax loopholes were awarded to powerful business interests!

We need to send representatives to Olympia who share working people's priorities! That's why your Union supports



Alice Woldt



A longtime community leader and activist, **ALICE WOLDT** is Executive Director of SAGE (Seattle Alliance for Good Jobs and Housing for Everyone) and former Executive Director of the Church Council of Greater Seattle, past Chair of the King County Democratic Party, and a former pre-school and elementary school teacher.

Education & Health Care

Alice will fight to **restore recent cuts in education and health care**, and to preserve access to quality home care for seniors and the disabled. She supports auditing tax breaks and **eliminating corporate tax loopholes** that don't help create good jobs.

Tax Fairness

Alice believes responsible employers and **taxpayers should not subsidize businesses like Wal-Mart** that don't offer affordable health care. She supports requiring large employers to pay a fee covering their employees on state-funded health plans. She's not afraid to stand up to powerful corporate interests.

Fair Wages

Alice **strongly supports our prevailing wage and minimum wage laws.** She petitioned for the 1998 minimum wage initiative, which voters passed by a 2-to-1 margin. **She has walked the picket lines** with nurses, grocery workers, janitors and other union members struggling for decent wages.

That's why YOUR UNION supports **Alice Woldt**

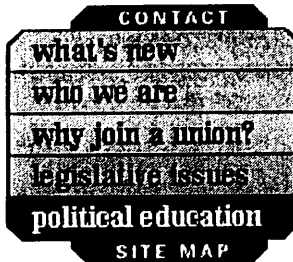
YOU DECIDE. Please VOTE in the Primary, Sept. 14.

LABOR Neighbor



A message from rank-and-file union members volunteering in the Labor Neighbor project and the Washington State Labor Council. Visit www.wslc.org for more information.

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WSLC**LABOR NEIGHBOR SCHEDULE**

This year, union members in Washington are participating in what the AFL-CIO has called the "largest mobilization of working Americans in multiple states in history." The Washington State Labor Council's Labor Neighbor campaign is in full swing as union volunteers go door-to-door talking with fellow union voters about the issues and why their union supports John Kerry for President, Christine Gregoire for Governor, and various candidates for Congress and State Legislature.



If you haven't already, please fill out an [online volunteer form](#) to work a shift (or two); contacted by your local coordinator. In addition to the following Labor Neighbor walks state, there are also **special leafletting "blitzes" and phonebanks on WEEKDAYS** please contact your Legislative District Coordinator, or join us on automated phone b calling Nancy Biagini at 916-541-3770.

Here is the Labor Neighbor walk schedule. **IMPORTANT -- Please RSVP.** Because need to deploy resources as effectively and efficiently as possible, we will no longer have areas open for "walk-ins" who do not RSVP. This allows us to redeploy staging staff areas):

<u>CITY</u>	<u>CONTACT(S)</u>	<u>SHIFTS</u>	<u>STAGING</u>
Aberdeen (LD 24)	<u>Jeff Johnson</u> 360-943-0608	SATURDAY, Oct. 9: 10 a.m.-3 p.m.	Laborers 3 <u>2728 Simp</u>
Auburn (LD 47)	<u>Ida Kovacic</u> 425-381-0018	SATURDAYS: 9 a.m.-2 p.m. and noon-5 p.m. SUNDAYS: Noon-5 p.m. and 2-7 p.m.	Operating I 286 <u>18 E St. S.</u>
Bellevue (LD 41)	<u>Heather Gordon</u> 206-992-0744	SATURDAYS: 9 a.m.-2 p.m. and noon-5 p.m. SUNDAYS: Noon-5 p.m. and 2-7 p.m.	UFCW 10C <u>12838 S.E</u>
Bothell (LD 1)	<u>Debbie Foley</u> 206-399-6428	SATURDAYS, Oct. 16 & 23: 9 a.m.-2 p.m. and noon-5 p.m. SUNDAY, Oct. 17: Noon-5 p.m. and 2-7 p.m.	Operating I 302 <u>18701 120</u>
Everett (LD 44)	<u>Chris Glenn</u> 425-210-6136 (cell)	SATURDAY, Oct. 9: 9 a.m.-2 p.m. and noon-5 p.m. SUNDAYS, Oct. 10 and 24: Noon-5 p.m. and 2-7 p.m.	Everett Lat Temple <u>2812 Lomt</u> <u>Room 106</u>
Olympia (LD 22)	<u>Jeff Johnson</u> 360-943-0608	SATURDAY, Oct. 9: 10 a.m.-2 p.m.	WSLC offic <u>906 S. Col</u> <u>#330</u>
Pasco	<u>Dick Monlux</u>	SATURDAYS:	Plumbers &

EXHIBIT 9

1 of 1

PDC Interview of Diane McDaniel
by Susan Harris

September 29, 2004

Olympia, Washington

Tape 1, side A

HARRIS: This is the statement of Diane McDaniel, PDC Case #05-067. The time is 10:10 and the date is September 29, 2004. I am Susan Harris of the Public Disclosure Commission. Also present are Phil Stutzman, staff member of the Public Disclosure Commission and Jim Oswald, counsel for Ms. McDaniel. This statement is being recorded at the offices of the PDC in Olympia. I'm going to ask Phil to administer the oath.

STUTZMAN: Would you raise your right hand please? Do you swear or affirm that the answers you will give today will be the truth, the whole truth and nothing but the truth?

MCDANIEL: Yes I will.

STUTZMAN: Thank you.

HARRIS: Ms. McDaniel you understand that this statement is being recorded?

MCDANIEL: Yes.

HARRIS: For the record and voice identification would you please say your full name and spell the last name?

MCDANIEL: Diane Marie McDaniel M-C-D-A-N-I-E-L.

HARRIS: And what is your work address?

MCDANIEL: 314 First Avenue West, Seattle, Washington 98119.

HARRIS: And your work telephone number?

MCDANIEL: 206-281-8901.

HARRIS: Thank you. Ms. McDaniel can you tell us where you're employed?

MCDANIEL: The Washington State Labor Council AFL-CIO.

HARRIS: And what is your job there?

MCDANIEL: I am the Cope/Political Director.

HARRIS: Okay. In a conversation I had with your counsel I asked that you bring a job description. Did you do that?

MCDANIEL: Yes. So many piles of stuff.

HARRIS: Okay. While he's searching for that can you give us an idea of what it is you do?

MCDANIEL: It's a, very much a mixed bag. My primary job, yeah I don't need it...

OSWALD: I was looking for one for me.

MCDANIEL: For you. Oh, okay. You guys can share. I am the Cope Director, Political Director and I work with all of the AFL-CIO unions in Washington State helping them with voter registration, I do training on, on how to set up a voter registration program etc., help them create materials...

HARRIS: What type of materials?

MCDANIEL: Oh, just like a flyer. Things like are you registered to vote, here's how you can do it. The Washington State AFL-CIO is a service organization. And so we provide service to the AFL-CIO union. So I'm basically jack of all trades. I can get a call from a local wanting help, want me to come in and speak to their stewards about why it's important to be involved in political action. To actually helping the local figure out how they, you know could engage their members. So it's really a jack of all trades job.

HARRIS: Can you describe the function of the State Labor Council? What is it? What are they? Who are they?

MCDANIEL: We are the state federation of AFL-CIO and we have different levels, we have the National AFL-CIO, the state federations and

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then our central bodies. And in Washington State we have 15 central bodies. The, the programs that the State Labor Council have are very diverse. Everything from substance abuse liaison to injured workers assistance. We have a communications program. We have so many different programs and again our function is to help the working people in the State of Washington and that's politically, legislatively, communications wise, dislocated workers. It's a very diverse program we have.

OSWALD: Would it be helpful to have, you have, I think I gave the purposes in the Constitution as an attachment to our September 22nd letter. There's also, I duplicated the, all of the reports that attended the 2002 convention so it recites all of the various activities. It's attached to a letter, the letter may have some issues that I need to correct but perhaps we could provide that to you by way of guidance. I have that, and the full constitution behind it.

HARRIS: That would be very helpful.

OSWALD: This is simply the original of those documents in case Diane needs them for reference.

HARRIS: Okay. Thank you. What are the labor council's stated goals and missions? Do you know? Do you have to look it up?

MCDANIEL: Yeah. There are a lot of them. Do you want me to read them into the record?

HARRIS: Sure.

MCDANIEL: Okay. "Establish better relations among local unions in the State of Washington. Encourage harmonious action in matters affecting the welfare of our labor movement. Promote and distribute labor literature and aid and encourage a more complete labor press. Promote and agitate for the union label, shop card and services.

Better prepare ourselves to combat the enemies of organized labor. Assist local unions in organization and contract negotiations whenever asked. And to have information and statistics available for all affiliated bodies to aid them in their problems. Bring into affiliation with the Washington State Labor Council all who are eligible to the end that the council shall become a powerful force to speak and act in defense and promotion of the whole body of laboring people of our state. Given recognition to the principle that both craft and industrial unions are appropriate, equal and necessary as methods of union organization." So that's the official.

HARRIS: Okay.

STUTZMAN: What page is that?

MCDANIEL: 76.

HARRIS: Can you describe a little bit of how it is the labor council achieves its goals?

MCDANIEL: All of these goals?

HARRIS: In general.

MCDANIEL: In general. We have a staff, I'm not sure exactly what our count is. Its 23-25. And each of the programs has a director and they're responsible for working with all of the AFL-CIO unions on their programs to again, achieve the stated goals as to assist them wherever we can. And so we are a service organization.

OSWALD: Excuse me, those issue are directly addressed, why don't I give you this mail with the understanding there may be some corrections to it...

HARRIS: Okay.

OSWALD: ...but there are pages that sort of integrate the purposes and the project direct reports and sort of tie them together conceptually rather than rough driving it. I'm not objecting to the question I'm just saying there might be a more...

HARRIS: Okay.

MCDANIEL: I haven't read the constitution in a long time.

HARRIS: How about we go off the record and let's look through this letter and if there are any remaining questions or anything that I want Ms. McDaniel to address then we can do that.

OSWALD: Oh sure. Absolutely.

HARRIS: It is 10:15. Ready?

OSWALD: Sure.

HARRIS: Okay we're back on the record. It is 10:32, took time to read the letter provided by Mr. Oswald. Okay we asked that you, you last described how the labor council achieved its stated goals and missions. Correct?

MCDANIEL: Right.

HARRIS: Do you consider the labor council to be a labor organization?

MCDANIEL: I always did. Yeah.

HARRIS: You think it's a labor organization?

MCDANIEL: Yeah.

HARRIS: You talked a little bit about this but I want you to talk further. Is the labor council affiliated with the AFL-CIO?

MCDANIEL: Yes.

HARRIS: How?

MCDANIEL: We are a state body chartered by the National AFL-CIO.

HARRIS: Okay. Did you happen to bring an organizational chart with you? I had asked Mr. Oswald for one.

MCDANIEL: Yeah. You have one right Jim?

OSWALD: What kind of an org chart are you asking for? The AFL-CIO org chart?

HARRIS: I asked for the AFL-CIO and the State Labor Council.

OSWALD: I have the State Labor Council and the, this is actually in Edelman's materials. If you can make sense out of that God bless you. I mean the AFL-CIO...

MCDANIEL: We could not find one.

OSWALD: We could not find one, that's the short answer. It's weird because I remember when I studies industrial relations in college I know I've seen them in that context. But they, there's, they have it in text on the AFL-CIO website. And we have that, brought that along.

HARRIS: Okay.

OSWALD: And we brought that organizational, the organizational structure of the State Labor Council.

HARRIS: Great. Who do you consider to be members of the labor council?

MCDANIEL: The AFL-CIO union...

OSWALD: For what purpose?

HARRIS: For any purpose. Who are the members of the labor council?

OSWALD: The State Labor Council?

HARRIS: Yes. The State Labor Council.

MCDANIEL: AFL-CIO unions.

HARRIS: So the individual unions?

MCDANIEL: And State Councils of those international unions.

OSWALD: What about the members of the individual unions.

MCDANIEL: Yes. Are you talking about the rank and file members? Yes. Absolutely. They are members.

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HARRIS: How is the labor council funded?

MCDANIEL: Through percapita payments of the unions. I couldn't even tell you...

HARRIS: What is a percapita payment?

MCDANIEL: It's a dollar amount based on the working members that the unions pay. They pay it to the National AFL-CIO, the State Federation and Central Labor Councils.

HARRIS: And how does the money flow? Once it's taken out of, I assume it's taken out of paychecks or?

MCDANIEL: Locals send it directly.

HARRIS: To?

MCDANIEL: To, well they send it directly to us...

OSWALD: Wait a second. Let's back up. You incorporated a predicate that's wrong.

MCDANIEL: Okay.

OSWALD: The percapita, who pays the percapita? It actually comes, she can explain it I think better. It's not like a member pays a percapita that goes to the State Labor Council. The union is required by the constitution and so on to pay a percapita but however they, its just they write the check but it's not like member union.

HARRIS: Okay. Can we have Ms. McDaniel explain?

OSWALD: Sure. But I'm just trying to get the predicate straight.

HARRIS: Okay.

MCDANIEL: The local unions pay a percapita every month based on the number of members who are working and they send the State Labor Council a check. And that's how it works.

HARRIS: Okay. And how does the AFL-CIO get its percapita payment?

MCDANIEL: I believe they get it directly from the internationals. I don't, I can't, I assume that's how they get it.

HARRIS: Yeah. But the labor council gets a check from the state union or from the local union?

MCDANIEL: Local unions. In some cases state councils.

HARRIS: I want to talk a little bit about affiliation in terms of the Public Disclosure Law. Can you tell me, can you explain the vertical affiliation with the labor council and all of it's...

MCDANIEL: Are you talking for contribution purposes to candidates?

HARRIS: Is there a difference?

MCDANIEL: Well that's what I want, assuming that's what you want me to speak to that we have, like when we're considering making contributions to say a legislative candidate that we all share in that AFL, the National AFL-CIO, State Federation and the CLC's by virtue of our...

HARRIS: What is a CLC?

MCDANIEL: Central Labor Council, central body.

HARRIS: Okay.

MCDANIEL: That for contribution purposes, that we are one. And so you want to know how we function under that structure?

HARRIS: No. Explain it again. The affiliation.

MCDANIEL: There's the National AFL-CIO. The State Federation and in this case it's the Washington State AFL-CIO and then we have 15 central bodies in this state.

HARRIS: Okay. And you stated that was for the purposes of contribution limits.

MCDANIEL: I use it, when I'm looking at making contributions to candidates because very early the PDC said that the AFL-CIO and its federated bodies shared one limit. Right?

OSWALD: Subsidiary bodies, the ones you just described.

MCDANIEL: Right. And so what I do is that, then we get the 15 central labor council's together and make sure that we coordinate so that there is no, so that we don't bust the limits.

HARRIS: Okay. For other purposes is there a different affiliation?

MCDANIEL: No.

OSWALD: Well what do you mean by affiliation? I mean I don't, I'm not trying to put words in your mouth Susan, I just don't know what question you're trying to pose and because affiliation is used so many different ways in this context to just ask it just sort of invites confusion in the record I think.

HARRIS: Well I asked her to explain the vertical affiliation of the organization...

OSWALD: For purposes of the PDC?

HARRIS: No. For any purpose.

OSWALD: Well vertical affiliation is a word that only kind of exists in the PDC context. That's why it's apples and oranges.

HARRIS: Okay. Let me try this. Who is the supreme organization for the State Labor Council?

MCDANIEL: The National AFL-CIO.

HARRIS: Okay.

MCDANIEL: They hold our charter.

HARRIS: Okay. Who are the subordinate organizations?

MCDANIEL: Of the?

HARRIS: Of the State Labor Council.

MCDANIEL: We have none. Central bodies, their charters are also held by the National AFL-CIO.

HARRIS: So you have none? You are all encompassed by the AFL-CIO. You don't have any direction or control over any of the central labor bodies?

MCDANIEL: The State Labor Council?

HARRIS: Yes.

MCDANIEL: No.

OSWALD: We're using technical terms here. As you know from the early correspondence back and forth, there is, it is in the AFL-CIO constitution that if the State Labor Council, for example, support a candidate for governor, that the central labor bodies can't, have to follow that endorsement. That's why they're locked into affiliation under direction and control. But I don't whether that's the question you were asking.

HARRIS: Okay. I'd like to go off the record. It is 10:40. Okay, we're back its 10:43. Ms. McDaniel can you describe the affiliation in terms of contribution limits from the AFL-CIO downward?

MCDANIEL: Yes. The AFL-CIO is our parent organization. The next level is the Washington State Federation, which is the Washington State Labor Council. And in this state we have 15 central bodies, we refer to them as central labor councils. So for contribution purposes we share one limit. And so we coordinate with those central bodies to make sure we do not exceed contribution limits.

HARRIS: Okay. In terms of what you might consider other affiliated entities such as member organizations, those don't have the direction and

control established by our regulations that would create, that would cause them to share contribution limits. Is that correct?

OSWALD: Do you mean with the AFL-CIO?

HARRIS: Yes. With the AFL-CIO or labor council.

MCDANIEL: Yes. That's correct.

HARRIS: Who are the other employees of the State Labor Council? Can you, I don't know if you need to give me names, well...

OSWALD: The org chart has names.

HARRIS: The org chart has names okay. Can you describe what each of these people do? I'll give it back to you.

MCDANIEL: We have two different staffs. We have our administrative staff and then we have our support staff. So Assistant to the President, Robbie Stern, he lobbies in Olympia. He does health care issues with our affiliates. He participates and organizes rallies. He's a Special Assistant so he takes his direction from Rick on any special projects that...

HARRIS: Rick?

MCDANIEL: I'm sorry, Rick Bender.

HARRIS: Thank you.

MCDANIEL: There's myself next on the chart. Communications Director Karen Kaiser. She has a dual purpose. One internal communications, she has a shop stewards educational program that she does. She works with retirees. We do labor in the schools. So the internal part. And then the external part, she deals with the media, we issue press releases from anything from a strike to, you know, if we've made an endorsement. She does, she issues those press releases. Publications Director David Groves, he is our webmaster. He designs all of our mail, all of our leaflets, rally flyers and he also

subs for Karen Kaiser while she's serving in the legislature in session. WIA Labor Liaison is Jim Tussler and Lori Province. These are grant staff who service dislocated workers. So when a company gets a warn notice we are there to help those workers, whether they're union or not, with obtaining unemployment benefits, retraining benefits, anything that can help them in this transition into another occupation. Raymond Mason is our Labor Liaison for alcohol and substance abuse prevention. We work with community groups trying to find ways to help people that have those addictions get the treatment they need. We work with our AFL-CIO unions on developing drug policies for contract language, again it's a multi-faceted program. Project (inaudible) Director Vickie Smith and also the Claims Coordinator Kerry Pierce. That is a project that is a department of L & I, the business community and labor to help injured workers make their way through an often times confusing claims process if they're injured on the job. Education and Safety Director Randy Loomins, she lobbies, she has safety training programs, train to trainer programs open to unions so that they can come in, learn it, go back into their locals and train their stewards and others on the job. Resource and Organizing Director Jeff Johnson, he is also a lobbyist. When not lobbying he does research, contract research for our unions if they have upcoming contract negotiations he does that sort of corporate research. And he also assists with organizing campaigns. Steve Igniack is our Labor Liaison for Community and Technical Colleges. That is also a joint department labor project to try and fill those positions that the governor's appointments are made, try and fill them with labor

folks where a labor slot is best supplied. Do you want to hear about our support staff as well?

HARRIS: No. That's fine.

MCDANIEL: No. Okay.

HARRIS: Do any of those individuals assist you with the political activities of the labor council?

MCDANIEL: Dave Groves assists with our internal member program and he designs, like I said, he designs flyers and materials, mail pieces etc.

STUTZMAN: What about Jeff Larson, you said that he organizes campaigns.

OSWALD: Jeff Johnson.

MCDANIEL: Jeff Johnson...

STUTZMAN: Jeff Johnson, sorry.

MCDANIEL: When I'm speaking to organizing, and that's where if one of the locals has an organizing drive going at a manufacturing plant as part of our stated mission we assist our unions to help them with that election to have those members become union.

OSWALD: Like a (inaudible) election. Not like a running for office election.

HARRIS: And who did you say assisted you with the flyers?

MCDANIEL: Dave Groves.

HARRIS: In an earlier response Mr. Oswald sent in a representative sample of some pieces that had been produced by the state labor council, are these the types of things that he would have produced for you.

MCDANIEL: Uh-huh. Yeah.

HARRIS: Is he the only one that assists you?

MCDANIEL: I have a support staff. A secretary.

HARRIS: Okay. In the overall activity for the labor council, what is your estimate of the amount of time and or money spent on the political activities of the council?

MCDANIEL: In looking at the overall scheme of things?

HARRIS: Yes. Just an estimate.

MCDANIEL: A percentage figure?

OSWALD: Do you want an election year or not an election year? An even year or an odd year?

MCDANIEL: Do you want this year?

HARRIS: This year.

MCDANIEL: Less than 10%. Somewhere between 5 and 10%.

HARRIS: Okay. What about on an odd year?

MCDANIEL: It just depends upon what, what's, it depends upon what our finances are. To be honest with you.

OSWALD: May I, are odd years normally less or more as a percentage?

MCDANIEL: They're normally less.

HARRIS: Okay. Let's look at your job. And let's split it out say between January and July how much time do you spend working on political activities? Supporting candidates, ballot issues.

MCDANIEL: I can speak to the beginning of the year I spend a lot of time making sure our internal, our membership file is updated and matched so we get people who are no longer union members, retired, deceased. I spend the first two months of the year on that. And then I write and develop candidate questionnaires that we have the races that we're responsible for, statewide, congressional, state legislative and judicial. I write those questionnaires and they're fed to our central labor council's who then conduct

PDC Interview

Diane McDaniel

September 28, 2004

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interviews with those candidates based on the response that we receive on our questionnaires.

HARRIS: Okay. And how much time do you spend doing this political activity?

OSWALD: Do you mean what percentage of her time?

HARRIS: Yes.

OSWALD: You don't want to know what the endless hours she works?

HARRIS: No. No, the percentage of time.

MCDANIEL: Of that kind of stuff?

HARRIS: Yes.

MCDANIEL: I would say probably 95%.

HARRIS: Okay.

MCDANIEL: Occasionally lobby but.

HARRIS: That's not one of your primary?

MCDANIEL: No.

HARRIS: Okay. What about from August through December?

OSWALD: Why don't we just say November because you don't see Diane in December.

MCDANIEL: You won't see me after November 3rd. You know we have our convention every year in August so that month is spent preparing for convention. And then my time doing the whole internal program is probably 100% of my time. And that's everything from answering questions of affiliates and, referring to all of it.

HARRIS: Yes. We talked about employees of the labor council that might assist you with political activities. Are there others who would assist you? Outside of the employee realm?

MCDANIEL: Volunteers.

HARRIS: Nobody paid?

MCDANIEL: Well in certain years we will hire, occasionally hire people.

HARRIS: To do what?

MCDANIEL: To assist me.

HARRIS: In what way?

MCDANIEL: You know, helping with flyer development, being my filter on phone calls and, variety of activities to support me.

STUTZMAN: On the flyer development, do you ever hire professional?

MCDANIEL: No. Well we did a couple years ago and we didn't like it. And so.

HARRIS: Does the labor council have a line item in its budget for political activities?

MCDANIEL: It has a line item in its budget for the voter registration program. Which is a lot of what we do.

HARRIS: Okay. The flyers that we've talked about earlier, who was the...

MCDANIEL: David Groves.

HARRIS: Yes. Who were they distributed to?

MCDANIEL: Union member households. AFL-CIO member households.

HARRIS: How were they distributed?

MCDANIEL: Either mailed or delivered in person.

HARRIS: Okay. You touched a little bit on this, the complaint alleges that the distribution goes to anyone who was ever a member of a union plus the retired members. Would you like to address that issue?

MCDANIEL: Absolutely. No it does not. I spend a tremendous amount of my time begging unions to update their membership lists with us twice a year. And I have the highest percentage of any state federation in the country in the amount of updating we do to our file. And in addition to that, if people have moved our, we also have our internal, we do all of our mailings in house and our equipment

filters out people who have moved so we're not mailing to people who have moved from that address. And so we try very hard to make sure our list is as accurate as possible.

HARRIS: Are you familiar with a PAC by the name of Supporting Intelligent Candidates PAC?

MCDANIEL: Yes I am.

HARRIS: Or SIC PAC. Who are they?

MCDANIEL: They are members of our staff who decided years ago, and I can't even tell you when it was, to set up a PAC because they were not happy with our union, where they contributed money.

OSWALD: When you say our union, what do you mean?

MCDANIEL: Office and Employees Union Local 8.

HARRIS: So they weren't happy with the way they were using their money politically?

MCDANIEL: They had PAC deductions and they weren't happy with the way that those deductions were spent by that PAC.

HARRIS: Has the State Labor Council ever given funds to SIC PAC?

MCDANIEL: Not as far as I know. I am not a member. I have nothing to do with SIC PAC.

HARRIS: Have you ever been a member?

MCDANIEL: I was initially and I hate to say this but I thought our own staff was kind of silly in what they were going to do with the money and I can't tell them what to do with the money and I don't. So.

HARRIS: Did the labor council or its pac receive funds for SIC PAC? Did SIC PAC every give money to the labor council?

MCDANIEL: Not that I know of.

HARRIS: Has the labor council ever given funds to the State Democratic Party?

MCDANIEL: Yes.

HARRIS: For what purpose?

MCDANIEL: Party building activities, both exempt and non exempt activities.

Tape 1, Side B

HARRIS: ...given to the State Democrats earmarked for specific candidates?

MCDANIEL: Absolutely not.

HARRIS: Okay. And again the purpose of the contributions were party building you said?

MCDANIEL: Party building, they have, they have two funds. One an exempt fund and one a non exempt fund. And we have from time to time contributed to both. Not consistently.

HARRIS: With no direction on how the funds were to be used?

MCDANIEL: No.

HARRIS: As you discussed earlier, the State Labor Council is funded from unions on a percapita basis, is that correct?

MCDANIEL: Right.

HARRIS: Do you know if this includes non member funds as well as member funds?

MCDANIEL: I, in my previous job at the Washington State Labor Council 16 years ago I was the bookkeeper and was based on working members. So I can speak to that.

HARRIS: 16 years ago.

MCDANIEL: Yeah.

OSWALD: Well the constitution still says members.

MCDANIEL: Yeah.

HARRIS: We're going to go off the record for a few minutes. It is 11:00. Okay we're back on the record, its 11:05. Just a couple of follow up

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Diane McDaniel

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questions Ms. McDaniel. Rick Bender is the President of the State Labor Council is that correct?

MCDANIEL: Right.

HARRIS: As President, what does he do?

OSWALD: What does your boss do. Choose your words carefully.

MCDANIEL: That's a loaded question. He travels a lot. He attends different union's conventions. He attends meetings, he sits on a number of committees. He's involved in everybody's programs. We have to report to him.

HARRIS: That was my next question. Do you report to him.

MCDANIEL: Yes.

HARRIS: Does he have any input on...

OSWALD: Excuse me, may I ask her one question for clarification because I think she didn't mention something that the record most surely does. Does he lobby at all?

MCDANIEL: Oh yeah, he lobbies. Yeah.

HARRIS: Does he have any input on any of your activities?

MCDANIEL: Yeah. He's my boss.

HARRIS: How much time does he spend working on the political activities that we previously discussed?

MCDANIEL: Not much. Not much. I brief him and he'll attend a meeting or two but he's a very busy man. I have a hard time even getting appointments with him. So.

HARRIS: You indicated that overall it is your estimate that the labor council spends between, what was it...

STUTZMAN: 5-10.

HARRIS: 5-10% of its time and/or budget on political activities. Is there any way to document that without going into line item budget issues? Do you keep time cards or...

MCDANIEL: Uh-Huh.

HARRIS: You do?

MCDANIEL: Uh-huh. Yes.

HARRIS: Does everyone?

MCDANIEL: I believe everyone does.

HARRIS: Would that be a way of documenting percentage of time overall spent on political activities?

MCDANIEL: Yes.

HARRIS: Okay. Can we get copies of those?

OSWALD: Let's think about this for a second.

MCDANIEL: Some are for other...

OSWALD: We can do this on the record or off, but I mean the vast majority, I think they do it weekly so you'd wind up with 1,000 time cards. At least, and 900 of them would show that people had no political activity. Diane's would show she had political activity every week. David's would show he spent, you know, during the campaign season a lot of his time on these, let me propose an alternative approach.

HARRIS: Okay.

OSWALD: I would propose that we could get declarations from everybody on the staff whose answer is I do no politics, I do not spend any time on the clock on political issues. And then for the handful of people who could not answer that question on their own, zero. We could give you time cards. But there's no point in pulling 1,000 time cards

when you know, $\frac{3}{4}$ of these people just never touch politics at all. I'll do it any way you want, I'm just proposing, I'm just, and the other thing is let's talk about this for a second. We are concerned about having all of our records brought into the public view. In fact I regard this action as in part a fishing expedition to get into the records of the State Labor Council. I don't mind doing this on the record. So, and I don't know whether the time cards are so detailed that they would substantially compromise the organizations opportunity or right to not have all of the stuff in public view. I mean I am confident that you know, if you pull the records they will substantiate what we're saying. I just want to figure out the way that gives you what you need and doesn't compromise privacy interest. Do you know how detailed the timecards are?

MCDANIEL: Well we have cost categories.

OSWALD: So you didn't just say 1.1 hours COPE or 6.4 hours labor liaison or something like that. So you're saying you don't think they're very detailed. They would really do what they're asking?

MCDANIEL: No. but the point is there's a lot of them and a lot of these folks do nothing in relation to the COPE program.

OSWALD: So what's your preference? I mean if you want the cards we can have somebody copy 1,000 sheets.

HARRIS: Okay you talk about the COPE program. What is the COPE program?

MCDANIEL: COPE is the, COPE stands for Committee on Political Education. It is the program of the National AFL-CIO. That's the terminology that they gave it a long time ago.

HARRIS: Okay so that would be all of your political activities?

MCDANIEL: Uh-huh.

OSWALD: I appreciate that you guys don't want to take it on her word. I mean that's doesn't offend me. I'm just trying to figure out how to (inaudible).

STUTZMAN: Can we decide that, do we have to decide that as part of the interview?

HARRIS: Right. We can talk about it further. But we do need to have something to substantiate. And if you're at 15% or 20%, I mean, I just, I asked you for a good faith estimate and I just need something to show that...

OSWALD: We can dump all of the 2004 timecards. If you want to do that, that's not a problem.

HARRIS: One of the problems we have is that the complaint goes back to 2000.

MCDANIEL: That's a lot of timecards.

HARRIS: It is. Yeah. So we can have the discussion later about how we're going to substantiate the time on that. I believe we are through with our questions. Is there anything that you would like to add?

OSWALD: Oh yeah, there's just a couple of issues that, and I don't think they're important. There was an allegation that the State Labor Council trained, was training candidates. Did you ever train Bob in your, what is it Labor 5000?

MCDANIEL: Actually it's called Planting Seeds for the Future.

OSWALD: And the answer is?

MCDANIEL: No. He never, he never attended our labor, we train rank and file people and they are not candidates.

HARRIS: You train these people to assist candidates?

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MCDANIEL: Both. They can come and learn about campaigns. How to run an effective campaign. They could use that to do an internal campaign against their local's president or, you know be a campaign manager for somebody. Or, if they ultimately decide down the road to run then they have skills. But they are not candidates when they attend.

OSWALD: Who pays for the training?

MCDANIEL: The union's sponsor their members. So again another one of our educational programs that we provide.

OSWALD: But the union and persons from defrays the cost of the training?

MCDANIEL: Right.

HARRIS: Okay.

OSWALD: I think that everything else was covered in the interview. Oh, on grants. There's a discussion about grant money versus, the, there was a suggestion in the complaint that grant money should be segregated and not considered. Did the grants cover all of the programs, the entire cost of the programs that the grants support?

MCDANIEL: No. Absolutely not.

OSWALD: And what happens when the money from the grants is in submission to pay for the program that the grant, it helps support?

MCDANIEL: Then we have to subsidize it with percapita.

OSWALD: And does that happen rarely, uniformly or....

MCDANIEL: Always.

OSWALD: So, we already have, we don't need to address how the money's kept track of because that's already been addressed.

MCDANIEL: Yes it has.

OSWALD: I think that's all I have. Thank you.

HARRIS: Okay. That concludes the interview. It is 11:14. Thank you.

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PDC Interpretation

APPROVAL DATE:	October 24, 1995	NUMBER:	95-04
STATUS:	New	SUPERSEDES:	None
REFERENCES:	RCW 42.17.020	APPROVED BY:	The Commission
SEE ALSO:			

Internal Political Communications of Membership Organizations

In effect, RCW 42.17.640 limits contributions from membership organizations to candidates for state office, bona fide political parties and caucus political committees. Similarly, RCW 42.17.105(8) restricts aggregate contributions from a membership organization to any candidate or political committee (including a ballot issue committee) to no more than \$5,000 during the 21 days before the general election. However, RCW 42.17.020(14)(b)(v) exempts an "internal political communication primarily limited to . . . the members of a labor organization or other membership organization" from the definition of contribution. This exemption, therefore, allows membership organizations to mail or otherwise transmit endorsements, political advertising, fund raising invitations and the like relating to candidates, political parties, caucus committees and ballot measures to their members without a contribution ensuing to the benefited candidate or committee.

In adopting Initiative 134, the voters found that "[T]he financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates." Therefore, it is critically important to protect the integrity of the contribution limits while at the same time recognizing and giving meaning to the exemption afforded labor unions and other membership organizations.

For purposes of implementing RCW 42.17.020(14)(b)(v), .105(8) and .640 in an advisory or enforcement matter:

- A. The Commission will examine whether the organization is a legitimate membership organization with common interest goals and objectives, taking into account such factors as the organization's permanence, structure and whether it has formal organizing documents, membership criteria and services it provides its members.
- B. With respect to the status of members of an organization, the Commission will examine whether a valid, active relationship exists between the organization and its members or classes of members for purposes other than influencing the

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outcome of an election, taking into account such factors as whether the members affirmatively accept membership and the rights and obligations conferred on members by the organization.

Further, if a membership organization and its members satisfy the criteria regarding "membership associations" and "members" established by the Federal Election Commission (FEC) in 11 CFR 100.8(b)(4), the Public Disclosure Commission will consider the organization and its members as qualifying for the exemption in RCW 42.17.020(14)(b)(v), unless the communication was not sent primarily to members. However, these FEC criteria are not the only indicators of legitimate membership organizations or valid members, a determination that would be made by the Commission on a case-by-case basis as necessary.

- C. In determining whether an internal political communication is "primarily" limited to the members of an organization, the Commission will consider whether any distribution to non-members is incidental and isolated.

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made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote, except that corporations and labor organizations shall engage in such activity in accordance with 11 CFR 114.4 (c) and (d). See also 11 CFR 114.3(c)(4).

§ 100.134 Internal communications by corporations, labor organizations, and membership organizations.

(a) *General provision.* Any cost incurred for any communication by a membership organization, including a labor organization, to its members, or any cost incurred for any communication by a corporation to its stockholders or executive or administrative personnel, is not an expenditure, except that the costs directly attributable to such a communication that expressly advocates the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed \$2,000 per election, be reported to the Commission on FEC Form 7 in accordance with 11 CFR 104.6.

(b) *Definition of labor organization.* For purposes of this section, *labor organization* means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(c) *Definition of stockholder.* For purposes of this section, *stockholder* means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(d) *Definition of executive or administrative personnel.* For purposes of this section, executive or administrative personnel means individuals employed

by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(1) This definition includes—

(i) Individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers; and

(ii) Individuals following the recognized professions, such as lawyers and engineers.

(2) This definition does not include—

(i) Professionals who are represented by a labor organization;

(ii) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(iii) Former or retired personnel who are not stockholders; or

(iv) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)-(1), of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 1.3402(a)-(1).

(3) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)-(1), of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)-(1).

(4) The Fair Labor Standards Act, 29 U.S.C. 201, *et seq.* and the regulations issued pursuant to such Act, 29 CFR part 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(e) *Definition of membership organization.* For purposes of this section membership organization means an unincorporated association, trade association, cooperative, corporation without capital stock, or a local, national, or international labor organization that:

(1) Is composed of members, some or all of whom are vested with the power and authority to operate or administer the organization, pursuant to the organization's articles, bylaws, constitution or other formal organizational documents;

(2) Expressly states the qualifications and requirements for membership in its articles, bylaws, constitution or other formal organizational documents;

(3) Makes its articles, bylaws, constitution or other formal organizational documents available to its members;

(4) Expressly solicits persons to become members;

(5) Expressly acknowledges the acceptance of membership, such as by sending a membership card or including the member's name on a membership newsletter list; and

(6) Is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual for Federal office.

(f) *Definition of members.* For purposes of this section, the term *members* includes all persons who are currently satisfying the requirements for membership in a membership organization, affirmatively accept the membership organization's invitation to become a member, and either:

(1) Have some significant financial attachment to the membership organization, such as a significant investment or ownership stake; or

(2) Pay membership dues at least annually, of a specific amount predetermined by the organization; or

(3) Have a significant organizational attachment to the membership organization that includes: affirmation of membership on at least an annual basis and direct participatory rights in the governance of the organization. For example, such rights could include the right to vote directly or indirectly for at least one individual on the membership organization's highest governing board; the right to vote on policy questions where the highest governing body of the membership organization is obligated to abide by the results; the right to approve the organization's annual budget; or the right to participate directly in similar aspects of the organization's governance.

(g) *Additional considerations in determining membership.* Notwithstanding the requirements of paragraph (f) of this section, the Commission may determine, on a case-by-case basis, that persons who do not precisely meet the requirements of the general rule, but

have a relatively enduring and independently significant financial or organizational attachment to the organization, may be considered members for purposes of this section. For example, student members who pay a lower amount of dues while in school, long term dues paying members who qualify for lifetime membership status with little or no dues obligation, and retired members may be considered members of the organization.

(h) *Members of local unions.* Notwithstanding the requirements of paragraph (f) of this section, members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

(i) *National federation structures.* In the case of a membership organization that has a national federation structure or has several levels, including, for example, national, state, regional and/or local affiliates, a person who qualifies as a member of any entity within the federation or of any affiliate by meeting the requirements of paragraphs (f)(1), (2), or (3) of this section shall also qualify as a member of all affiliates for purposes of paragraphs (d) through (i) of this section. The factors set forth at 11 CFR 100.5(g)(2), (3) and (4) shall be used to determine whether entities are affiliated for purposes of this paragraph.

(j) *Non-applicability of state law in determining status of membership organizations.* The status of a membership organization, and of members, for purposes of this section, shall be determined pursuant to paragraphs (d) through (i) of this section and not by provisions of state law governing unincorporated associations, trade associations, cooperatives, corporations without capital stock, or labor organizations.

(k) *Definition of election.* For purposes of this section, *election* means two separate processes in a calendar year, to each of which the \$2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, whenever and wherever held; the second process is comprised of all general elections for Federal office, whenever

Federal Election Commission

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and wherever held. The term election shall also include each special election held to fill a vacancy in a Federal office (11 CFR 100.2(f)) or each runoff election (11 CFR 100.2(d)).

(l) *Definition of corporation.* For purposes of this section, *corporation* means any separately incorporated entity, whether or not affiliated.

(m) *Reporting.* When the aggregate costs under this section exceed \$2,000 per election, all costs of the communication(s) shall be reported on the filing dates specified in 11 CFR 104.6, and shall include the total amount expended for each candidate supported.

§ 100.135 Use of a volunteer's real or personal property.

No expenditure results where an individual, in the course of volunteering personal services on his or her residential premises to any candidate or political committee of a political party, provides the use of his or her real or personal property to such candidate for candidate-related activity or to such political committee of a political party for party-related activity. For the purposes of this section, an individual's residential premises shall include a recreation room in a residential complex where the individual volunteering services resides, provided that the room is available for use without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not an expenditure.

§ 100.136 Use of a church or a community room.

No expenditure results where an individual, in the course of volunteering personal services to any candidate or political committee of a political party, obtains the use of a church or community room and provides such room to any candidate for candidate-related activity or to any political committee of a political party for party-related activity, provided that the room is used on a regular basis by members of the community for non-commercial purposes and the room is available for use by members of the community without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not an expenditure.

§ 100.137 Invitations, food, and beverages.

The cost of invitations, food, and beverages is not an expenditure where such items are voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises or in a church or community room as specified at 11 CFR 100.106 and 100.107 to a candidate for candidate-related activity or to a political committee of a political party for party-related activity, to the extent that: The aggregate value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in any calendar year.

§ 100.138 Sale of food and beverages by vendor.

The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign, or for use by a political committee of a political party, at a charge less than the normal or comparable commercial charge, is not an expenditure, provided that the charge is at least equal to the cost of such food or beverage to the vendor, to the extent that: The aggregate value of such discount given by the vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year.

§ 100.139 Unreimbursed payment for transportation and subsistence expenses.

(a) *Transportation expenses.* Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or political committee of a political party is not an expenditure to the extent that:

(1) The aggregate value of the payments made by such individual on behalf of a candidate does not exceed \$1,000 with respect to a single election; and

(2) On behalf of all political committees of each political party does not exceed \$2,000 in a calendar year.



Washington State Labor Council, AFL-CIO

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I, Bernice Vance, declare that the following is true:

1. I am employed by the Washington State Labor Council as accounting manager, and have been employed in this capacity for over ten years.
2. The WSLC creates a separate bank account for each grant received, and tracks funds received and expended from that account. Because there are several such grants, there are several separate bank accounts. No funds from the grant accounts are used for internal political communications, or for expenditures to political campaigns.
3. I am currently the Secretary Treasurer of SIC PAC. I was also a founding member of SIC PAC. SIC PAC was created because the staff of the WSLC was not satisfied with the PAC maintained by OPEIU, the union PAC to which we contributed. We did not have any influence on how the OPEIU PAC expended its funds, although we believed we should have. So we decided to stop participating in the OPEIU PAC and start our own PAC.
4. The decision to start SIC PAC was not made by the leadership of the WSLC. Rick Bender and Al Link are members of OPEIU Local 8, and so are permitted to participate in SIC PAC. However, all contribution decisions in SIC PAC are made by consensus, typically after the candidate has sent SIC PAC a letter requesting a contribution. Rick Bender and Al Link rarely attend the SIC PAC meetings where the contributions decisions are made, and typically only learn of the decisions after the fact. Diane McDaniel is not a contributor to SIC PAC, and so does not participate in our decisions. The contribution decisions by SIC PAC are not influenced by the contribution decisions by the PAC maintained by the WSLC ("PPP"). Because we do not keep track of decisions by the PPP, I do not know the extent to which SIC PAC has contributed to the same candidates as PPP.
5. I am aware that the WSLC Constitution, at Article XI, a copy of which is attached to this declaration, requires that local unions affiliated with the WSLC pay a designated amount "per member," and requires that per capita be paid on their "full membership." I have no basis to believe that any unions pay per capita based on persons who are not members.

I declare under penalty of perjury that the foregoing is true.

Dated this 21 day of September, 2004.



Bernice Vance

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Court of Appeals Division II

State of Washington

Opinion Information Sheet

Docket Number: 25272 -4-II
Title of Case: Evergreen Freedom Foundation, et al, Appellant
v.
Wash. Education Association et al, Respondent
File Date: 04/19/2002

SOURCE OF APPEAL

Appeal from Superior Court of Thurston County

Docket No: 97-2-01419-8
Judgment or order under review
Date filed: 10/08/1999
Judge signing: Hon. Wm. T. McPhee

JUDGES

Authored by Elaine M. Houghton
Concurring: David H. Armstrong
J. Robin Hunt

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON ex rel. No. 2 5272-4-II
EVERGREEN FREEDOM FOUNDATION, a
Washington nonprofit corporation,
and
TEACHERS FOR A RESPONSIBLE
UNION, an unincorporated
association,

Appellants and

Cross Respondents,

v.

WASHINGTON EDUCATION ASSOCIATION; PUBLIS HED OPINION
NATIONAL EDUCATION ASSOCIATION;
KRISTEEN HANSELMAN; BELLEVUE
UNISERV COUNCIL; CASCADE UNISERV
COUNCIL; CHINOOK UNISERV COUNCIL;
EASTERN WASHINGTON UNISERV
COUNCIL; FOURTH CORNER UNISERV
COUNCIL; KENT UNISERV COUNCIL;
LOWER COLUMBIA UNISERV COUNCIL;
MID-STATE UNISERV COUNCIL; NORTH
CENTRAL UNISERV COUNCIL; OLYMPIC
UNISERV COUNCIL; PILCHUCH UNISERV
COUNCIL; PUGET SOUND UNISERV
COUNCIL; PUGET SOUND UNISERV
COUNCIL; RIVERSIDE UNISERV

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COUNCIL;
 SAMMAMISH UNISERV COUNCIL; SEATTLE
 UNISERV COUNCIL; SOUNDVIEW UNISERV
 COUNCIL; SOUTHEAST WASHINGTON
 UNISERV COUNCIL; SPOKANE UNISERV
 COUNCIL; VANCOUVER UNISERV
 COUNCIL; TACOMA UNISERV COUNCIL;
 SEATTLE EDUCATION ASSOCIATION,

Respondents and

Cross Appellants,

SEATTLE SCHOOL DISTRICT NO. 001;
 BELLEVUE SCHOOL DISTRICT No. 405;
 CENTRAL KITSAP SCHOOL DISTRICT NO.
 401; EVERETT SCHOOL DISTRICT NO.
 002; FEDERAL WAY SCHOOL DISTRICT
 NO. 210; HIGHLINE SCHOOL DISTRICT
 NO. 405; KENT SCHOOL DISTRICT NO.
 415; LYNDEN
 SCHOOL DISTRICT NO. 504; OLYMPIA
 SCHOOL DISTRICT NO. 111; PASCO
 SCHOOL
 DISTRICT NO. 001; SEDRO -WOOLEY
 SCHOOL DISTRICT NO. 101; SPOKANE
 SCHOOL DISTRICT NO. 081; TACOMA
 SCHOOL DISTRICT NO. 010; VANCOUVER
 SCHOOL DISTRICT NO. 037; and
 YAKIMA
 SCHOOL DISTRICT NO. 007,

Defendants.

HOUGHTON, J. -- The Washington Education Association (WEA) conducted a campaign opposing two statewide initiatives in the 1996 general election. The initiatives did not pass. The initiatives' sponsor, the Evergreen Freedom Foundation (EFF), filed a lawsuit against WEA, alleging that WEA was a political committee and, therefore, it did not make the appropriate financial disclosures regarding its opposition to the initiatives. At trial, WEA asserted that the definition of 'political committee' was unconstitutional because it chilled its First Amendment right to issue advocacy. The trial court found that WEA was not a political committee and did not reach any constitutional issues. EFF appeals the trial court's ruling, arguing that (1) WEA was a political committee; (2) EFF was entitled to a jury trial; (3) EFF was entitled to amend its complaint to include additional allegations; and (3) the trial court erred in awarding attorney fees to one defendant. WEA cross-appeals, arguing, inter alia, that the statutory definition of 'political committee' is unconstitutional and the trial court erred in not awarding it attorney fees. We agree with the trial court that the WEA was not a political committee and, therefore, we affirm.

FACTS

In 1995, EFF certified two ballot propositions for the 1996 November general election. The initiatives, I-173 and I-177 (I-173/177), would have allowed charter schools and the use of education vouchers. The WEA, a labor union representing employees in public schools, opposed both initiatives.

During the 1996 election cycle,² WEA informed its members about I-173/177 and organized opposition to the initiatives. WEA also formed a

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separate political committee, the 'No on I-173/177 Committee' (the No Committee), with other organizations opposed to the initiatives. WEA contributed \$263,500 in general fund cash and in-kind contributions to the No Committee.

WEA also solicited the National Education Association (NEA) for funds to donate to the No Committee. The NEA transferred \$410,000 to WEA, which donated the money to the No Committee.

The initiatives did not pass. In April 1997, EFF took the first steps toward filing a citizen's lawsuit under RCW 42.17.400(4) by filing an administrative complaint with the Washington Attorney General's Office (AG), as required by the Public Disclosure Act (the Act).

EFF then would be free to file a citizen's lawsuit on the issues that either the Public Disclosure Commission (PDC) or the AG did not act on. EFF complained that WEA had violated various provisions of the Act. The PDC acted on some of these allegations and declined to act on others.³ In fall 1997, EFF learned that WEA had also received \$410,000 from NEA in order to assist it in defeating I-173/177.⁴ EFF believed this also violated the Act.⁵

EFF sought to include these new allegations in its citizen's lawsuit against WEA. According to the Act, EFF had to pursue administrative remedies first. On October 1, 1997, EFF sent a first notice to the AG requesting that the state file a lawsuit against WEA because of the funds transfer from NEA to WEA. On December 4, EFF had received no word from the state

regarding an enforcement action based on these new allegations. Under RCW 42.17.400(4), EFF sent the AG a second letter on December 4, giving notice that EFF would file a citizen's action within 10 days if the state took no action within that time.

On December 12, the AG sent EFF a letter explaining that it had referred EFF's allegations to the PDC. The letter stated that the PDC would file administrative charges against the WEA or NEA based on the \$410,000 funds transfer.⁶ The AG explained that because the PDC had taken an administrative action based on EFF's allegations, the AG would not file a lawsuit based on those allegations. The AG also notified EFF that it could not include these allegations in a citizen's lawsuit because of the PDC's administrative enforcement actions.

On December 17, EFF filed this lawsuit in the superior court on the initial issues that the PDC and the AG had declined to act on.⁷ EFF complained that WEA and its affiliate organizations⁸ were political committees as defined by the Act and should have made appropriate financial disclosures. EFF also alleged that Kristeen Hanselman, an NEA employee, had underreported her in-kind services to the No Committee. EFF asked for declarative and injunctive relief and civil penalties on behalf of the state.

On January 2, 1998, EFF moved to amend its complaint to include allegations about the \$410,000 funds transfer from NEA to WEA. The trial court denied EFF's motion because the PDC had acted on those allegations. The trial court reasoned that considering these allegations would violate the priority of action rule.

EFF demanded a jury trial. WEA moved to strike the jury demand. The trial court granted WEA's motion, concluding that the action was not one for which the right of trial by jury is reserved.

The 16-day-long bench trial included testimony of approximately 50 witnesses and 750 exhibits. After trial, the court issued a written decision and made extensive findings of fact and conclusions of law, including detailed findings of WEA's activities preceding and during the 1996 election cycle. The trial court concluded that WEA was not a political committee. The trial court also found that Kristeen Hanselman did not violate the Act by underreporting her hours. The trial court

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awarded Hanselman costs and attorney fees , but it denied costs and attorney fees to WEA.

EFF appeals and WEA cross -appeals.

ANALYSIS

I. EFF's Appeal

A. Standard of Review

EFF first contends that WEA was a political committee. Whether EFF was a political committee is a mixed question of law and fact. There are disputes both as to the inferences drawn from the facts and the meaning of 'political committee' as a statutory phrase. See *Korte v. Employment Sec. Dep't*, 47 Wn. App. 296, 300, 734 P.2d 939 (1987). We review mixed questions of law and fact under the error of law standard, giving deference to the trial court's factual findings, but reviewing their application to the law de novo. *Wright v. Mead Sch. Dist.* No. 354, 87 Wn. App. 624, 628, 944 P.2d 1 (1997), review denied, 134 Wn. 2d 1011 (1998); *Korte*, 47 Wn. App. at 300.

EFF also challenges whether the trial court's findings of fact regarding 'contributions,' 'expenditures,' and 'disclosures' are findings of fact or conclusions of law. The trial court's label of a finding as one of fact is not determinative. *Para-Medical Leasing, Inc. v. Hangen*, 48 Wn. App. 389, 397, 739 P.2d 717, review denied, 109 Wn. 2d 1003 (1987).

Here, the definitions of 'contribution' and 'expenditure' depend on the definition of 'political committee.' The statutory definition of 'contribution' includes, in relevant part, a 'transfer of funds between political committees.' RCW 42.17.020(14) (a)(i) (emphasis added). The definition of 'expenditure' includes, in relevant part, 'a payment, contribution, subscription, distribution, loan, advance, deposit, or gift' RCW 42.17.020(19) (emphasis added). Therefore, when the definition of 'political committee' is resolved, no other aspects of the definitions of 'contribution' or 'expenditure' remain unclear for the purposes of resolving the issues before us.

Accordingly, after we decide the above definitional issues, EFF's second and third assignments of error¹⁰ will be subject to de novo review because they involve whether certain uncontested facts establish 'contributions.' EFF's assignments of error four through seven¹¹ involve the definition of 'political committee,' which makes them questions of law also subject to de novo review, as discussed above. EFF's assignments of error eight through eleven¹² involve separate issues of law and are subject to de novo review.

B. Definition of Political Committee

EFF argues that the trial court erred in concluding that WEA was not a political committee during the 1996 election cycle. Specifically, EFF challenges the definition of political committee and the methodology the trial court used to determine whether WEA met that definition. This is the central issue. A finding that WEA was a political committee would require WEA to file detailed reports to the PDC of all bank accounts, all deposits and donations, and all expenditures, including the names of each person contributing funds. RCW 42.17.060(2); RCW 42.17.080; RCW 42.17.020(14) (a)(i); RCW 42.17.020(19). All funds would have to be reported, even those used for traditional labor union activities not connected with electoral campaign activity, such as collective bargaining, member representation, and other teacher assistance.

The Act sets forth two alternative prongs under which an individual or organization may become a political committee and subject to the Act's reporting requirements. 'Political committee' means any person . . . having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.' RCW 42.17.020(33). Thus, a person or organization may become a political committee by either (1) expecting to receive or receiving contributions, or (2) expecting to make or making expenditures to further electoral political

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1. Maker of Expenditures

In the only Washington Supreme Court case to interpret the statutory definition of 'political committee,' the Court added a new requirement to the 'making of expenditures' prong. *State v. Dan J. Evans Campaign Comm.*, 86 Wn.2d 503, 509, 546 P.2d 75 (1976). The organization making expenditures must have as its 'primary or one of the primary purposes . . . to affect, directly or indirectly, governmental decision making by supporting or opposing candidates or ballot propositions. . . .' *Evans*, 86 Wn.2d at 509 (emphasis omitted).

The trial court here adopted the broad standard 'one of the primary purposes' and applied it in formulating its own rule: An organization is a political committee if one of its primary purposes is to affect governmental decision making by supporting or opposing candidates or ballot propositions, and it makes or expects to make contributions in support of or in opposition to a candidate or ballot measure.

We begin our analysis by noting that the trial court correctly formulated this rule. First, as the only mandatory authority on this issue, *Evans* controls interpretations of the 'maker of expenditures' prong. Second, the declaration of policy at the beginning of the Act states that its

provisions are to be liberally construed 'to promote complete disclosure of . . . political campaigns. . . .' RCW 42.17.010(11).

a. The standard for determining 'primary purpose'

EFF challenges the trial court's method for determining whether electoral political activity is one of WEA's primary purposes. Specifically, EFF argues that the trial court's means/ends analysis is faulty because it ignores that all 'political' organizations are able to articulate goals that do not identify immediate political objectives.

To give guidance to the courts in this case of first impression, we hold that an appropriate framework for determining whether electoral political activity is one of an organization's primary purposes should include an examination of the stated goals and mission of the organization and whether electoral political activity was a primary means of achieving the stated goals and mission during the period in question.

Under this analysis, a nonexclusive list of analytical tools a court may use when evaluating the evidence includes: (1) the content of the stated goals and mission of the organization; (2) whether the organization's actions further its stated goals and mission; (3) whether the stated goals and mission of the organization would be substantially achieved by a favorable outcome in an upcoming election; and (4) whether the organization uses means other than electoral political activity to achieve its stated goals and mission.

This analysis avoids the means/end formula against which EFF argues. For example, if the organization has merely restated its primary political purpose in broad nonpolitical terms, the organization's purpose will likely be achieved in an upcoming election. But if electoral political activity is merely one means the organization uses to achieve its legitimate broad nonpolitical goals, electoral political activity cannot be said to be one of the organization's primary purposes.

But this analysis should not be applied as a formula. These are analytical tools meant to guide the court's determination of the equitable issues presented. They are intended to reach all relevant evidence, but they are not exclusive. For example, by examining the totality of the circumstances, a fact finder may look at all of the organization's actions, including those in addition to its stated goals. If the activities of an organization reveal that a majority of its efforts are put toward electoral political activity, the fact finder may disregard the organization's stated goals to the contrary.

If, after making these considerations, the fact finder determines that, on

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the whole, the evidence indicates that one of the organization's primary purposes was electoral political activity during the period in question, and the organization received political contributions as defined in the Act, then the organization was a political committee for that period and should comply with the appropriate disclosure requirements.

This is similar to the analysis the trial court completed.¹⁴ The trial court considered the WEA's goals, core values, pronouncements, and the implementation of those pronouncements. The trial court found that WEA's 'purpose {was} to enhance the economic and professional security of its members.' Clerk's Papers (CP) at 995. WEA accomplishes this not only by conducting contract negotiations and strikes, but also by legislative lobbying and electoral political activity when its members' economic security is implicated.

EFF, as well as the Education Excellence Coalition (EEC) as an amicus curiae, argue that the trial court's decision violates the Equal Protection Clause because it considers the percentage of WEA's expenditures on electoral political activity. EFF and EEC argue that a small percentage of a large organization's budget spent on electoral political activity may be more than a small political committee's entire budget. Such a consideration, they argue, impermissibly

favours large organizations because a small political organization would be subject to disclosure under the Act, while the large organization would be able to outspend the smaller one without being subject to disclosure.

Although we acknowledge this argument, we note that the trial court's decision did not rely on this factor, and our analysis does not include it. We affirm the trial court's analysis exclusive of an analysis of percentage of expenditures.

Finally, the trial court balanced the policy objectives stated in the Act and by our Supreme Court in Evans. It recognized the Act's stated purpose that full disclosure is the goal and secrecy is to be avoided. CP at 979 (citing RCW 42.17.010(1)). The trial court also, however, noted a caveat from Evans: The definition of political committee was not meant to indiscriminately include all those who seek to influence government by their support or opposition to candidates or ballot propositions. CP at 979 (quoting Evans, 86 Wn.2d at 507 -08).

After comparing the trial court's findings and engaging in our analysis as set forth, we hold that under the uncontested facts of this case, WEA was not a political committee as a maker of expenditures.

2. Receiver of Contributions

An organization can also become a political committee by 'receiving contributions . . . in support of, or opposition to, any candidate or any ballot proposition.' RCW 42.17.020(33). We also hold that WEA was not a political committee as a receiver of contributions. Under the 'receiver of contributions' prong, the trial court properly adopted the test from a 1973 Attorney General Letter Opinion: When an organization is funded primarily by membership dues, it is a 'receiver of contributions' if the members are called upon to make payments that are segregated for political purposes and the members know, or reasonably should know, of this political use. CP at 1893 (1973 Letter Op. Att'y Gen. No. 114, at 4. Dues are political 'contributions' if the organization's members intend or expect their dues to be used for electoral political activity.

In the 1973 Letter Opinion, the AG was asked whether a public employees' union was a political committee under the receiver of contributions prong when its funds were primarily gathered through dues. The Letter Opinion states that if the only source of revenue of the organization is dues or assessments to fund general operations, and the membership has no actual or constructive knowledge that the organization is setting aside funds to support or oppose a candidate or ballot proposition,

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then the organization is not a political committee under the 'receiver of contributions' prong. 1973 Letter Op. At t'y Gen. No. 114, at 4. But if the membership makes payments that are segregated into a fund for political purposes and the membership knows or should know of this segregation, those payments are 'contributions' and the organization is a political committee under the 'receiver of contributions' prong. 1973 Letter Op. Att'y Gen. No. 114, at 4 -5.

The Letter Opinion applied this standard to the Washington State Councils of Police Officers and Fire Fighters. 1973 Letter Op. Att'y Gen. No. 114, at 5. The AG opined that a court would not find these two organizations to be political committees because the dues they receive are not separated into political funds. 1973 Letter Op. Att'y Gen. No. 114, at 5. On the other hand, the Letter Opinion states that a court may find that the Seattle Fire Fighters' Union Local No. 27 was a political committee because it received monies that were meant for political campaign expenditures. Because the bylaws so specify, the membership is deemed to have knowledge that part of the money was to be spent on political activity. Such money is then a 'contribution' and its receipt by the union probably qualifies the union as a political committee. 1973 Op. Atty. Gen. No. 114, at 5.

We adopt the above reasoning. Here, the WEA members paid dues into the WEA general fund, which was not segregated in any manner for political expenditures.¹⁵ The members, therefore, would have had no actual or constructive knowledge that their membership dues would be used for electoral political activity. Thus, those dues were not 'contributions' as defined under the Act. WEA was not a political committee as a receiver of contributions.

C. EFF's Motion to Amend Its Complaint

EFF further argues that WEA is a political committee as a receiver of contributions because WEA received a large contribution from NEA, which WEA then contributed to the No Committee. EFF asserts that the trial court erred when it did not allow EFF to amend its complaint to include allegations that a \$410,000 transfer of funds from the NEA to the WEA was a political contribution.

In October 1997, EFF learned that WEA had received \$410,000 from NEA in order to assist it in defeating I-173/177. EFF believed this violated the Act.¹⁶ EFF moved to amend its complaint to include these new allegations. Under RCW 42.17.400(4), a private person may bring a lawsuit in the name of the state (a citizen's action) for violations of the Act only if three conditions are met. First, the person must give notice to the AG and the prosecuting attorney that there is reason to believe that some provision of the Act is being or has been violated. Second, if 45 days after this first notice the prosecuting attorney and AG have not commenced an action, the person must file a second

notice with the AG and prosecuting attorney notifying them that the person will commence a citizen's action within 10 days of this second notice if neither the prosecutor nor the AG acts. Finally, the AG and the prosecuting attorney must fail to bring such an action within 10 days of receiving the second notice.

On October 1, 1997, EFF sent a first notice to the AG requesting that the state file a lawsuit against WEA because of the funds transferred from NEA to WEA. On December 4, EFF had received no word from the state regarding an enforcement action based on these new allegations. Under RCW 42.17.400(4), EFF sent the AG the second letter on December 4, giving notice that EFF would file a citizen's action within 10 days if the state took no action within that time.

On December 12, the AG sent EFF a letter explaining that it had referred EFF's allegations to the PDC, the administrative body charged jointly with the AG with enforcing the Act. The letter explained that the PDC would

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file administrative charges against the WEA or NEA based on the \$410,000 transfer of funds.¹⁷ The AG explained that because the PDC had taken administrative action based on EFF's allegations, the AG would not file a lawsuit based on these allegations. The AG notified EFF that it could not file a citizen's lawsuit because the PDC had started administrative enforcement actions based on EFF's allegations.

Nevertheless, EFF moved to amend its complaint in the superior court to include allegations about the \$410,000 funds transfer. The trial court denied EFF's motion based on the priority of action rule. EFF argues that action by the PDC does not preclude a citizen's action under RCW 42.17.400(4) because (1) EFF met the statutory requirements for a citizen's lawsuit, and (2) the priority of action rule does not apply because there is not an identity of remedies available at the trial court and administrative level.

1. Standard of Review

Although we generally review a trial court's decision not to allow a party to amend its complaint for an abuse of discretion, when the ruling is based on the court's determination of the law, we review it de novo. *Wilson v. Horsley*, 137 Wn.2d 500, 505, 974 P.2d 316 (1999) (denial of a motion to amend a complaint is reviewed for an abuse of discretion); *Washington State Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 339, 858 P.2d 1054 (1993) ('{a} trial court would necessarily abuse its discretion if it based its ruling on an erroneous view of the law'). Because the trial court's decision not to allow EFF to amend its complaint was based on the priority of action legal doctrine, we review its ruling de novo.

2. Language of the Act

EFF argues that under the language of the Act, the trial court erred in not allowing EFF to amend its complaint because neither the prosecutor nor the AG acted on EFF's allegations. Rather, the PDC, the administrative agency charged with joint primary enforcement of the Act, commenced an action against WEA based on EFF's allegations.

As stated, RCW 42.17.400(4) only allows a citizen's lawsuit to enforce alleged violations of the Act if three conditions set out above are met. Although it is true that RCW 42.17.400(4) does not specifically refer to an action by the PDC, other parts of the statute do. RCW 42.17.395(1) grants the PDC authority to determine whether violations of the Act have occurred and to issue and to enforce appropriate orders. RCW 42.17.400(2) states that the AG or prosecuting attorney 'may investigate or cause to be investigated' alleged violations of the Act.

Here, before the 10-day period had passed after EFF's second letter to the AG, the AG forwarded the allegations to the PDC for investigation. This was appropriate action for the AG to take and it tolls the 10-day deadline. Further, the AG deferred to the charges that the PDC filed as appropriate under RCW 42.17.400(1) and RCW 42.17.395. Because the AG acted before the end of the 10-day period, EFF could not bring a citizen's lawsuit under RCW 42.17.400(4) and the trial court properly denied EFF's motion to amend its pleadings.

D. The Priority of Action Doctrine

EFF also argues that the PDC's actions did not toll the 10-day period because the relief available to the PDC is not identical to the relief available to the trial court. Therefore, EFF asserts that, absent res judicata between the PDC's ruling and the trial court, the priority of action doctrine does not apply.

Under the priority of action doctrine, the forum that first gains jurisdiction over a matter retains exclusive authority over it. *City of Yakima v. Int'l Ass'n of Fire Fighters*, Local 469, 117 Wn.2d 655, 675, 818 P.2d 1076 (1991) (quoting *Sherwin v. Arveson*, 96 Wn.2d 77, 80, 633 P.2d 1335 (1981)). This doctrine applies to administrative agencies and the courts. *Int'l Ass'n of Fire Fighters*, 117 Wn.2d at 675 (superior court erred in assuming jurisdiction of a case already proceeding before the

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Public Employees Relation Commission). The doctrine only applies if the two cases at issue involve identical (1) subject matter, (2) parties, and (3) relief. Int'l Ass'n of Fire Fighters, 117 Wn.2d at 675. The identity of these elements must be such that a decision in one tribunal would bar proceedings in the other tribunal because of res judicata. Int'l Ass'n of Fire Fighters, 117 Wn.2d at 675.

It is undisputed that the first two elements of the doctrine, identical subject matter and parties, exist. EFF argues, however, that the third element, identity of relief, is not met because the PDC can levy fines only up to \$2,500, but the court can levy fines far in excess of that amount. RCW 42.17.395(4); RCW 42.17.390(5). This is a disparity of relief, argues EFF, so the doctrine should not apply.

But this disparity does not preclude us from determining that the third element has been met and applying the priority of action doctrine here. First, the type of relief available to both the PDC and the court is the same. RCW 42.17.395(4). Second, if the PDC believed the matter before it would not be remedied by the penalty available to it, the PDC could have referred the matter to the AG for a lawsuit in superior court. RCW 42.17.395(3). And third, the policy behind the priority of action doctrine, the ability to apply res judicata to a later action in superior court, relates here. See Int'l Ass'n of Fire Fighters, 117 Wn.2d at 675. Res judicata precludes a later lawsuit when the second lawsuit has identical subject matter, cause of action, persons and parties, and the quality of the persons for or against whom the claim is made. Rains v. State, 100 Wn.2d 660, 663, 674 P.2d 165 (1983).

Here, these four elements of res judicata are met. The subject matter of the claim EFF wanted to assert was identical to that of the PDC's administrative case. The defendants, WEA and NEA, were also identical in both actions. The state was the charging party in both cases: the PDC as the agency charged by statute to enforce the Act in the administrative case, and EFF is in the shoes of the state in the superior court case. Because both parties would sue in the name of the state, the quality of the person making the claim would be the same in both cases. Rains, 100 Wn.2d at 664 (identity of the parties is a matter of substance, not form). EFF argues that the disparity in the amounts the PDC and the superior court are able to enforce precludes applying res judicata. In support of this, EFF cites selections from the Restatement (Second) of Judgments, stating that preclusion is inapplicable for a claim when the plaintiff was unable to seek 'certain remedy or form of relief in the first action because of the limitations on the competency of the {tribunal}. . . .' Restatement (Second) of Judgments sec. 83 cmt. g (1982). EFF's reliance on this comment is misplaced.

Language elsewhere within the same comment clarifies this quotation and indicates that it applies to a different problem: because administrative agencies are typically limited in the substantive claims they can adjudicate, a party may have substantive legal claims arising from the same transaction that the agency cannot hear. Restatement (Second) of Judgments sec. 83 cmt. g (1982). Because the agencies are institutionally incompetent to hear all claims, a party should not be precluded from bringing a lawsuit in a court of general jurisdiction for a hearing of claims excluded at the agency level. Restatement (Second) of Judgments sec. 83 cmt. g (1982). This is not the issue here; the PDC is competent to adjudicate the issue EFF brought.

Nor is the form of relief at issue in this case. As mentioned, the form of relief before both the PDC and the superior court is a fine. Although the amount of the fines may be different, the form of relief is the same. Finally, the policies behind a citizen's lawsuit provision in the Act and the priority of action doctrine are complementary. The citizen's lawsuit provision seeks to give private citizens, such as EFF, the right to enforce the Act only if the state has not acted. The priority of action doctrine

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seeks to allow the first forum to retain jurisdiction over a claim to preclude other forums from asserting jurisdiction. Therefore, because the PDC had acted, EFF could not invoke the citizen's lawsuit provision. This is also consistent with the proper broad policy concerns the trial court articulated in its oral ruling. If EFF was allowed to amend its complaint to bring the same claim in superior court that the PDC was pursuing administratively, the effect would be to 'permit the individual watchdog to file an individual action in superior court after the PDC considered the matter and decided to handle it administratively, . . . tak{ing} that discretion away from the PDC.' I Report of Proceedings at 42. Thus, every watchdog group would be able to demand that the PDC find the watchdog's allegations meritorious or the watchdog could sue in superior court.

The trial court properly denied EFF's motion to amend its complaint. Therefore, we do not address EFF's allegations about the NEA funds transfer because the issue is not before us.

E. EFF's Right to a Jury Trial

EFF next contends that the trial court erred when it denied EFF's jury demand. Our state constitution preserves the right to a trial by jury. Wash. Const. art. I, sec. 21. But this right is not absolute for civil causes of action. *Sofie v. Fibreboard Corp.*, 112 Wn.2d 636, 644, 771 P.2d 711, 780 P.2d 260 (1989). If there is no statute granting a jury trial, Washington courts examine the nature of the cause of action to see if it is analogous to a common law cause of action entitled to a jury trial when the constitution was adopted in 1889. *Sofie*, 112 Wn.2d at 648-49. Parties bringing equitable actions are not entitled to a jury. *State v. State Credit Ass'n*, 33 Wn. App. 617, 621, 657 P.2d 327 (1983), reversed on other grounds, 102 Wn.2d 1022 (1984).

In *Sofie*, our Supreme Court recognized that, although the United States Supreme Court precedent on the right to a civil trial under the Seventh Amendment was not binding on state courts, it may be used as an analytical example. *Sofie*, 112 Wn.2d at 649. Our Supreme Court then cited one such federal case, *Tull v. United States*, 481 U.S. 412, 107 S. Ct. 1831, 95 L. Ed. 2d 365 (1987). *Sofie*, 112 Wn.2d at 649. The Court noted that *Tull* used a historical analysis to determine whether a new cause of action was analogous to one that was entitled to a jury trial at common law. *Sofie*, 112 Wn.2d at 649. The Court then held that recent tort theories could be analogized to common-law tort theories that existed when our state constitution was adopted in 1889. *Sofie*, 112 Wn.2d at 649.

EFF asks us to adopt not only the *Tull* methodology of historical analysis, but also the particular analogy the United States Supreme Court used. In *Tull*, the Court analogized a judgment for a violation of the Clean Water Act to an 18th century action in debt, for which federal courts had granted a jury trial under the Seventh Amendment. *Tull*, 481 U.S. at 420. Here, EFF argues that because EFF, acting for the state, also seeks civil penalties under statutory provisions, this action should also be seen as an action in debt and, thus, requires a jury trial. But as the trial court correctly noted, EFF's reliance on *Tull* for this proposition is misplaced.

First, our Supreme Court emphasized that it reached its result on independent state grounds and that *Tull* did not compel its result. *Sofie*, 112 Wn.2d at 649. The Court did not adopt the *Tull* holding in its entirety. *Sofie*, 112 Wn.2d at 649. Although the Court adopted the method of historical analogy from *Tull*, it specifically refused to 'stretch{} the analogy as far as the {United States} Supreme Court did. . . .' *Sofie*, 112 Wn.2d at 649. In *Sofie*, the Court held only that recent tort theories are analogous to the common law tort actions in existence in 1889. *Sofie*, 112 Wn.2d at 649.

Second, as the trial court correctly ruled, Washington courts have recognized that some recent causes of action have no historical analogues. EXHIBIT 14
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For example, State Credit Ass'n recognize d that consumer protection actions had no parallel in the law when the const itution was adopted in 1889. State Credit Ass'n, 33 Wn. App. at 621. In that case, the court held that the Consumer Protection Act's concept of 'unfair or deceptive practices' or 'unfair methods of competition' have no e xact common law equivalent. State Credit Ass'n, 33 Wn. App. at 621.

Similar to State Credit Ass'n, there is not an historical analogue from 1889 to the cause of action for viol ation of campaign finance regulation.¹⁸ Therefore, we are not comp elled to hold that the cause of action in this case necessarily fits with in a historically recognized cause of action. Nevertheless, even if we were to decide that the present case has an analogue from 1889, it would be one analogous to an action in equity. Here, the trial court properly c onsidered the factors identified in Brown v. Safeway Stores, Inc. for when a lawsuit is primarily equitable and, thus, not subject to a jury trial. Brown, 94 Wn.2d 359, 368, 617 P.2d 704 (1980). The factors are: (1) who se eks equitable relief; (2) if the person seeking the relief is demanding a jury trial; (3) whether the main issues are primarily legal or equitable; (4) whether the equitable issues present complexities that would affect th e orderly determination of such issues by jury; and (5) whether the equit able and legal issues are easily separable. (6) The court should give gre at weight to the constitutional right to a jury when exercising its discr etion and (7) should go beyond the pleadings to ascertain the real issue in dispute. Brown, 94 Wn.2d at 368. The trial court correctly determined that the primary issues in the case were equitable ones brought by EFF. EFF' s amended complaint states six prayers for relief that are primarily equ itable. Injunctive relief is an equitable remedy. State Credit Ass'n, 33 Wn. App. at 621. Restitution or civil penalties are incidental to the inj unctive relief when the two are combined. State Credit Ass'n, 33 Wn. App . at 621. EFF's first prayer is really three separate prayers for declara tory injunctions that the WEA, COP (Community Outreach Program), and UniServ Councils are political committees and required to comply with the Act's rep orting requirements. The second prayer for relief is for an injunction re quiring WEA, COP, and UniServ Councils to report as political committee s. The third, fourth, fifth, and sixth prayers are for civil penalties, ad ditional injunctive relief and for costs and attorney fees. EFF's request f or penalties is incidental to the injunctive relief requested. Even when e xamined beyond the pleadings, the nature of the lawsuit was primarily equit able. The trial court further determined that the issues were of such c omplexity that they should be tried to a court.

Finally, the court offered to consider mo tions to bifurcate the legal and equitable claims. EFF made no such motio n. Because EFF's prayers for relief are equi table in nature, the penalties are incidental to the equitable claims, the t rial court did not err in denying EFF's request for a jury trial.

F. The Public's Right to Know

EFF further contends that the trial court erred in deciding that the public's right to know of all reportable contributions had been satisfied. More specifically, EFF asserts that (1) t he trial court's finding on this matter is a conclusion of law subject to de novo review, and (2) the trial court's 'vast majority' standard is insuf ficient.¹⁹ Specifically, EFF argues that WEA made unreported expenditu res and hid the source of \$410,000 it received from the NEA.

Contrary to EFF's assertion, this issue i s a mixed question of law and fact, which we review under the error of law standard, giving deference to the factual findings, but reviewing their application to the law de novo. Wright, 87 Wn. App. at 628; Korte, 47 Wn. App. at 300. We review findings of fact to see if substantial evidence su pports them. If it does, even if there is contradicting evidence, we uphol d the findings of fact. Org. to EXHIBIT 14
Preserve Agric. Lands v. Adams County, 12 8 Wn.2d 869, 882, 913 P.2d 793 12 of 16

(1996).

The Act says in its declaration of policy 'that political campaign and lobbying contributions and expenditures { are to } be fully disclosed to the public and that secrecy is to be avoided.' RCW 42.17.010(1). It further states that the Act 'shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying. . . .' RCW 42.17.010(11).20

Because the Act indicates a preference for full disclosure, the trial court may have erred in applying a test that requires only the 'vast majority' of amounts to be reported for the public's right to know to be satisfied. But an incorrect application of law is harmless when it is trivial, or formal, or merely an academic error, and when a reasonable person would determine that the error did not affect the outcome of the case. See *City of Bellevue v. Lorang*, 140 Wn.2d 19, 32, 992 P.2d 496 (2000) (quoting *State v. Smith*, 131 Wn.2d 258, 263-64, 930 P.2d 917 (1997) (quoting *State v. Wanrow*, 88 Wn.2d 221, 237, 559 P.2d 548 (1977))); see also Dennis J. Sweeney, *An Analysis of Harmless Error in Washington: A Principled Process*, 31 Gonz. L. Rev. 277 (1995/96).

The trial court found that WEA's allocated political expenditures totaled \$548,444. This amount included contributions to the No Committee, the salaries of employees assigned to work on the anti-initiative campaign, travel expenses, and the cost of a poll WEA paid for, which gave the results to the No Committee. EFF does not dispute this finding.

The trial court further found that an additional amount must be added for the salaries of those who spent only some of their time on the anti-initiative campaign. The court relied on Laird Vanetta, an independent CPA who contracts to do work for the WEA, for the calculation of those figures. The trial court found that Vanetta's methods were reliable. On appeal, EFF does not dispute Vanetta's reliability (and in fact, relies on Vanetta's figures for its own calculations).

Vanetta opined that \$147,717 was a fair amount to add for these additional partial salary contributions. When this amount is added to the \$548,444 (allocated political expenditures), the total is \$696,161. WEA reported a total of \$713,941 to the PDC. Therefore, even if \$696,161 is a low estimate, all of the political expenditures WEA made are accounted for. EFF disputes these findings for two reasons. First, EFF argues that according to Vanetta's numbers, the additional salaries could vary from approximately \$147,717 to over \$700,000 depending on the accounting methods used. Although the approximate \$700,000 amount may be supported by Vanetta's alternative figures based on different hypothetical scenarios, the trial court found that the scenario yielding a lower \$147,717 amount was more reasonable.

We affirm this finding because there is substantial evidence that the accounting methods and numbers that reach the \$147,717 amount are reliable, which EFF does not dispute on appeal.²¹ Finally, the \$410,000 from the NEA was accounted for in the settlement agreement of February 26, 1998. See footnote 3.

Therefore, even assuming, without so holding, that the trial court erred in utilizing the 'vast majority' standard, it was harmless because the facts indicate that under an even stricter standard, all monies expended for political purposes were reported or brought to the PDC's attention. The trial court correctly determined that the public's right to know has been satisfied.

G. Attorney Fees

Finally, EFF argues that the trial court erred in awarding attorney fees to Kristeen Hanselman. EFF contends that the trial court improperly awarded fees on a single claim in the larger suit and improperly interpreted and applied the standard for awarding fees under the Act. WEA cross-appeals, requesting attorney fees on all claims.²² In Washington, a litigant is generally not entitled to attorney fees unless

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authorized by contract, statute, or on a recognized ground in equity. Barnett v. Buchan Baking Co., 108 Wn.2d 405, 408, 738 P.2d 1056 (1987). The Act provides that a trial court may award a respondent costs of trial and reasonable attorney fees only when a citizen's action under the Act is dismissed and when the court finds that the action was brought without reasonable cause. RCW 42.17.400(4).23 We review an award of attorney fees for an abuse of discretion. State ex rel. Quick-Ruben v. Verharen, 136 Wn.2d 888, 903, 969 P.2d 64 (1998).

Here, the trial court did not base its award of attorney fees on the entire lawsuit, but instead it considered the claims against Hanselman separately. The trial court did not find that the entire lawsuit was brought without reasonable cause; rather it found only that the claims against Hanselman were brought without reasonable cause.

Whether 'action,' as used in the Act for attorney fee provision for a citizen's action, refers to an entire lawsuit or a single claim is an issue of first impression. Our Supreme Court, however, has held that the purpose of the Act's provision for attorney fees in a citizen's lawsuit was to prevent frivolous and harassing lawsuits. Fritz v. Gorton, 83 Wn.2d 275, 314, 517 P.2d 911 (1974) (holding this to be a basis for finding the citizen's lawsuit provision of the Act unconstitutional). The policy of discouraging frivolous citizen actions is furthered more by awarding attorney fees to individual claims brought without reasonable cause than by allowing frivolous claims to enjoy the safe haven of meritorious ones. EFF also argues that the trial court abused its discretion when it lowered the standard for determining whether the claim against Hanselman was brought without reasonable cause. EFF further contends that it brought the claim against Hanselman with reasonable cause.

We hold that regardless of the standard applied, the trial court did not abuse its discretion in awarding attorney fees to Hanselman. EFF bases its argument on the fact that the trial court allowed this claim to survive summary judgment and argues that the issue is one of first impression. But the trial court ruled that the claim against Hanselman failed for lack of proof, and presented no undetermined issue of law or matter of public interest. Because the record supports these rulings, the trial court did not abuse its discretion. The trial court properly awarded attorney fees.

II. WEA's Cross-Appeal

WEA argues in its cross-appeal that the Act is unconstitutional because it regulates issue advocacy without a compelling state interest to justify the regulation. Because we hold that WEA was not a political committee during the 1996 November election cycle, we do not address WEA's cross-appeal. State v. Smith, 104 Wn.2d 497, 505, 707 P.2d 1306 (1985) ('A court will not reach a constitutional issue if it can decide the case on nonconstitutional grounds.').

For the same reasons as applied against EFF, separate claims within a greater lawsuit may or may not be awarded attorney fees. The trial court did not abuse its discretion in denying attorney fees to WEA on the other claims. Therefore, we affirm the denial of fees and costs to WEA and deny them on appeal.

Affirmed.

Houghton, J.

We concur:

Armstrong, J.

Hunt, C.J.

1 The Attorney General submitted an amicus curiae brief defending the constitutionality the definition of 'political committee' in RCW 42.17.020(33) and arguing that the trial court properly declined to allow

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EFF to amend its complaint during trial. The Education Excellence Coalition also submitted an amicus curiae brief arguing that a factor the trial court used in concluding that WEA was not a political committee violated the Equal Protection Clause of the Constitution.

2 The trial court ruled that for the purpose of this case, the 1996 election cycle was from July 1, 1995, to November 6, 1996.

3 The AG filed an enforcement action against WEA. Thurston County Cause No. 96-2-04395-5. WEA; James Seibert, WEA's executive director; and Kristeen Hanselman, an NEA employee, filed a counterclaim. Thurston County Cause No. 97-2-02700-1. The Public Disclosure Commission filed an administrative action against WEA involving a transfer of \$410,000 (discussed below). PDC Case No. 98-176.

On February 26, 1998, all parties entered into a settlement agreement in which they agreed, inter alia, that WEA would change its policies to disallow money for political education of its members (Community Outreach Program or COP) to be used to pay for administrative or overhead expenses for WEA's registered political action committee (WEA-PAC); COP was not and is not a political committee within the meaning of RCW 42.17.020(33); WEA-PAC unintentionally failed to report in-kind contributions for administrative support from funds allocated to COP; WEA unintentionally failed to report legal contributions to WEA-PAC and the No Committee to the PDC; WEA, its UniServ Councils, local associations and WEA-PAC are affiliated entities for purposes of sharing contribution limits but separate entities for purposes of reporting contributions; WEA violated RCW 42.17.120 by submitting \$410,000 to the No Committee without disclosing NEA as the source of those funds (discussed below); NEA violated RCW 42.17.120 by giving \$410,000 to WEA to give the No Committee without reporting separately to the PDC. WEA and its affiliates agreed to pay a \$80,000 penalty and \$20,000 in costs to the state. Finally, the above mentioned lawsuits and administrative charges and pending complaints were dismissed with prejudice.

4 See footnote 3.

5 The statute in question, RCW 42.17.120, reads: 'No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.'

6 The letter also states that the PDC had taken action against NEA, WEA, and Seibert in response to allegations unrelated to the allegations of concern here. See footnote 3.

7 See footnote 3.

8 These include the NEA, regional groups within the state, called UniServ Councils, and local education associations.

9 EFF also argues that findings regarding 'disclosure' are legal conclusions, but the statute does not define this term. See RCW 42.17.020.

10 EFF's second and third assignments of error involve whether the \$410,000 transferred from NEA to WEA, and then to the No Committee, was a 'contribution' under the Act.

11 In its fourth through seventh assignments of error, EFF claims the trial court erred in concluding that WEA was not a political committee as a receiver of contributions, in making a means/ends distinction when determining primary purpose, in applying a percentage of expenditures test when determining primary purpose, and in concluding that WEA was not a political committee as a maker of expenditures.

12 In its eighth through eleventh assignments of error, EFF claims the trial court erred in concluding the purposes of the Act had been fulfilled, in refusing to allow EFF to amend its complaint to include new charges, in

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striking EFF's jury demand, and in awarding attorney fees to Kristeen Hanselman and NEA.

13 We use the phrases 'electoral political goals' and 'electoral political activity' to convey the statutory language 'support of, or opposition to, any candidate or any ballot proposition' from RCW 42.17.020(33).

14 We agree with the trial court that it had little appellate court guidance. Nevertheless, the trial court engaged in a thoughtful and detailed analysis of a difficult issue.

15 EFF does not challenge this finding of fact (FOF 12) and it is a verity on appeal. See *State v. Avila*, 102 Wn. App. 882, 896, 10 P.3d 486 (2000), review denied, 143 Wn.2d 1009 (2001).

16 See footnote 5.

17 See footnotes 3 and 6.

18 EFF argues that because *Sofie* was decided after *State Credit Ass'n*, *Sofie*'s broad analogous approach to the historical analysis overrules *State Credit Ass'n*'s more narrow approach of an 'exact common law equivalent.' *Sofie*, 112 Wn.2d at 649; *State Credit Ass'n*, 33 Wn. App. at 621. Yet although the *Sofie* court's method allows an analogy rather than an exact equivalent, *Sofie* did not specifically overrule *State Credit Ass'n*. Further, EFF neglects to recognize that although *Sofie* takes an analogous approach, it specifically rejected the *Tull* court's analogy as too broad. *Sofie*, 112 Wn.2d at 649.

19 The trial court found that: 'The public's right to know reportable campaign contributions has been satisfied inasmuch as the vast majority of these amounts were reported to the PDC as cash and in-kind contributions received by the No on 173/177 Committee.' CP at 1891 (finding of fact 46).

20 It is worth noting that the Act's statement of purpose ends with this proviso: 'In promoting such complete disclosure, however, this chapter shall be enforced so as to insure that the information disclosed will not be misused for arbitrary and capricious purposes and to insure that all persons reporting under this chapter will be protected from harassment. . . .' RCW 42.17.010(11).

21 EFF challenged *Vanetta*'s methods and conclusions at trial during his cross-examination and by calling its own accountant, Irving Ross. Yet, as previously noted, the trial court found *Vanetta*'s opinions reasonable, credible, and based on general accounting principles. Furthermore, also as previously noted, EFF does not argue against *Vanetta*'s conclusions on appeal and relies on them itself.

22 We address *WEA*'s cross-appeal in section II *infra*.

23 '{I}n the case of a citizen's action which is dismissed and which the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable attorney's fees incurred by the defendant.' RCW 42.17.400(4).

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Diane McDaniel
Political Director
Washington State Labor Council, AFL-CIO

The COPE Program of the AFL-CIO and its state federated bodies have the responsibility of developing a sound political education program for AFL-CIO members on state and national issues. It shall encourage workers to register and vote, to exercise their full rights and responsibilities of citizenship and to become educated and informed on candidates' positions affecting working men and women.

Specific Job Duties:

Maintenance of a membership file of all AFL-CIO members residing in the state of Washington.

Assist AFL-CIO local unions with voter registration programs, strategies and materials.

Direct our internal member education program to AFL-CIO members in Washington State.

Develop candidate questionnaires to be used by those seeking an AFL-CIO endorsement. Work with our 15 central bodies on the recommendations for endorsement that are passed on to the AFL-CIO COPE Convention for final action.

Assist AFL-CIO locals with election law and campaign finance related questions.

Provide member education training to AFL-CIO locals.

Oversee the Planting Seeds for the Future program to train rank-and-file union members how to run effective campaigns.

Oversee the distribution of WSLC PPP (our political account) contribution checks and coordinate those contributions with the 15 central bodies we share the contribution limit.

Oversee the PDC reporting that is done by my secretary.

Other duties as assigned by the President or Executive Board of the WSLC.

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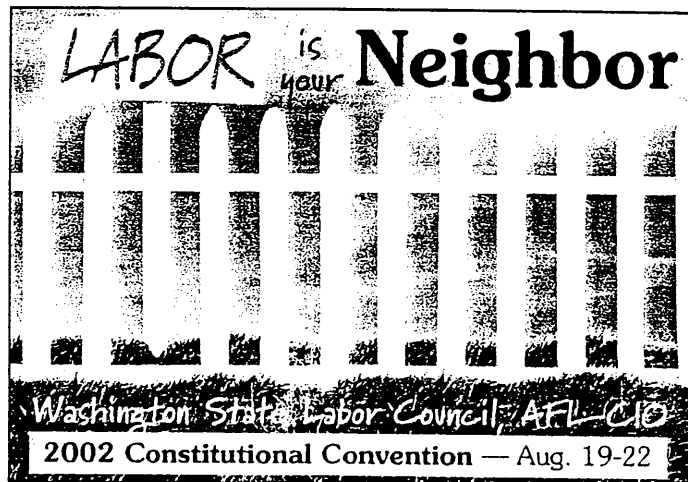
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Washington State
Labor Council, AFL-CIO

PARTIAL PROCEEDINGS

of the
2002 Convention



Held in

Spokane, Washington
August 19-22, 2002

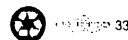


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Report of the President

The WSLC convenes the 2002 Constitutional Convention during a time of national concern over terrorism stemming from the September 11th attacks in New York City and Washington, DC. At the same time, the state of Washington is going through a difficult economic recession impacting tens of thousands of our rank and file workers. We have the second highest unemployment rate in the nation.

Despite these difficult times, the Council has a strong record of action and accomplishments in fighting for and protecting Washington State's working families. Our labor movement continues to be action-oriented, progressive and unified.

The National AFL-CIO has been slowly implementing the "New Alliance" across the country. To date, only three states have gone through the restructuring and reorganizing process – New York, North Carolina and Oregon (with other states soon to follow). It is still my opinion that the success or failure of the New Alliance will depend on whether it can deliver a stronger labor movement, more resources and manpower to the smaller state feds and central labor councils.

The 2001 legislative session gave us, for the third year in a row, a slim majority in the Senate and a 49/49 tie in the State House. As a result, pro-worker legislation was, once again, thwarted by the Republican leadership and committee co-chairs.

However, all of that changed dramatically in the fall of 2001 with the two special elections for the State House seats in the 21st and 38th districts. A victory in both races would give the Democrats a 50/48 majority. Under a new program called "Labor to Neighbor", where union volunteers contacted every union household once, and in high union density precincts, twice we were able to get our union vote out and beat the incumbent Republican by 12 points.

With those two victories, labor had the most successful legislative session (2002) since the '93 session. We showed the importance of tying politics to organizing and accomplishing a progressive worker agenda. The Washington Labor Council,



Rick S. Bender
President

working with its affiliates, was able to pass four collective bargaining bills: 1) full bargaining rights for state employees; 2) implementing legislation for home care workers; 3) four-year faculty collective bargaining rights at our universities and four-year colleges; and 4) collective bargaining rights for TA's (teaching assistants) and RA's (research assistants) at the University of Washington. These four bills give us the potential of adding 60,000 new members to the AFL-CIO.

In addition, we passed a whole range of other bills from expanding family care, to getting UI benefits for victims of domestic violence, and prohibiting mandatory overtime for our nurses at health care facilities. We were also successful in turning back attempts by the business community to repeal our state's Ergonomics Rule – the only preventative standard in the nation. This is only a partial list of our successes in the 2002 legislative session.

This last session also proved to be challenging for the state budget. Facing a \$1.6 billion shortfall and very little will to find other revenues, the legislature cut state employee jobs, gave no pay increases, and required our public employees to pick up more of their health care costs. These tough economic times will make the next budget process even more difficult going into the year 2003. Compounding the problem is that Washington State has the most regressive tax structure in the country, and it's way past time for tax reform.

It will be our goal over the next two years to increase our numbers, which will enhance our ability to better serve our affiliates and their rank and file members. I am very fortunate to have Secretary/Treasurer Al Link as my partner and friend. Just as important is the quality staff working for our members. They are all hardworking, dedicated trade unionists and they make this Council one of the best state feds in the country.

Elections and Politics

We continue to build on our successes from 1996 and 1998 with the 2002 election. Our political program is considered one of the best in the nation. We are very successful in educating, mobilizing and getting our rank and file members out to vote.

In 2000, we picked up the other U.S. Senate seat when Maria Cantwell beat the incumbent, Slade Gorton. This victory paved the way for the Democrats to regain control of the U.S. Senate when Senator Jeffries changed his party affiliation. Also, six out of the nine Washington State Congressional seats are labor-friendly, and we won all but two of the statewide elective offices, from governor, attorney general, state treasurer, state auditor, superintendent of public instruction, to one of the best state supreme courts ever. We still have a lot of work to do getting stronger pro-worker majorities in our state houses.

Looking at 2002, with an expanded "Labor Neighbor" program and permanent absentee programs, our chances of building stronger majorities in the State Senate and House look very good. It will all depend on whether we can get the necessary volunteers to implement our grassroots program.

Rich J. Brader

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Report of the Communications Director

In the past two years, we have witnessed a revolution in communications. The widespread acceptance of e-mail and internet web-based sites has changed the way labor in our state is communicating with members. Many of the information services from the Washington State Labor Council are in transition to these electronic forms of communication.

When I first joined the WSLC, our "Greensheet" newsletter was duplicated in house and mailed on a bulk mailing permit to affiliated local unions once a month. Over the years we expanded the mailing list to hundreds individuals who requested the newsletter, and went from monthly to a quarterly publication, printed at a union print shop. Reducing the number of editions made the information less topical, but costs were prohibitive to return to the monthly newsletter approach.



Karen Keiser

Last year, we returned to the monthly newsletter, but we are now distributing it via e-mail. Our e-mail list has grown to several hundred unions and individuals. Unions and individuals who request a paper copy of the newsletter have one mailed, and that request amounts to just over one hundred distributed by mail.

Our Legislative Voting Record Reports edition remains a printed tabloid that we mail and distribute at meetings. Longer articles with more background information still seem to be handled better on a printed page, so the complicated legislative stories are published in this annual tabloid.

Other electronic communications include our activist "E-List" for alerts about developing labor stories and disputes, and our daily updated home page with a compiled list of newlinks for labor stories. Our webmaster, Dave Groves, is infamous and immensely talented!

A new service we are beginning to develop this year is an electronic version of our old "Shop Stewards Network," which we discontinued a few years ago because of cost. We had created a network of more than 3,000 individual shop stewards from throughout the state and numerous unions, but we found the cost of producing and distributing a regular newsletter too high to sustain. This summer we are updating our list and requesting affiliates to provide e-mail addresses for their shop stewards and we hope to inaugurate a "new, improved" shop stewards e-mail network this fall. We are finding that rank-and-file members often have personal e-mail, but that many local unions do not have their e-mail addresses available.

Another new service we have provided in the last year is a monthly opinion column by President Rick Bender that we distribute to weekly newspapers around the state. There are more than 100 weekly papers in our local communities and many have been willing to run President Bender's monthly column, providing a voice to advocate for unions in many rural and suburban areas that don't often hear that voice.

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Once again, we are finding that technology has help "spread the union word." Weekly newspapers too have adopted e-mail as their preferred method of communication and distributed a monthly column by e-mail to more than 100 newspapers is so much easier when all one has to do is hit the "send" button.

The Washington State Labor Council has also become a subscriber of a relatively new radio news service, called Washington News Service. For a modest annual fee, WNS includes labor stories in its feeds to radio stations around the state. On a typical day, one of the WNS stories featuring a labor spokesman will run on 23 to 26 radio stations, often several times in one day. Again, these are reaching audiences in the rural and suburban areas that don't usually hear about labor issues and events. We consider the WNS service a good value.

Of course, we continue to organize news events and press conferences in the Puget Sound region as the need arises, and we work in close coalition with several community, religious and civic organizations on many issues of public concern.

Finally, it has been my pleasure to work with the great staff of the Washington State Labor Council and under the strong leadership of our President Bender and Secretary-Treasurer Link. This state federation is among the best in the country and we work as a team to advance the best interest of working people in our state. It's a great job! I have also been grateful for the flexibility of my colleagues when my schedule is interrupted by legislative duties. It was a wonderful experience to serve in the Senate last session, and I am undertaking a campaign this fall to retain my Senate seat. When I am in session or on the campaign trail I take unpaid leave from the Labor Council. And I always greatly appreciate returning to the "real world" at the Labor Council.



Report of the WIA Labor Liaison

But That's Not Fair!

News Flash: The Boeing Corporation is laying off thousands; every major aluminum facility in the state is idle; our trade deficit is at an all time high. What used to be surpluses is now state and federal red ink; the Federal Reserve has lowered interest to stimulate a stalled economy; but the Stock Market is down 20 to 30%. And now for the really important news: At this writing, Washington State has the second highest unemployment rate in the nation! If it were not for Oregon, our sister state to the south, Washington would have the highest percentage in the nation of working men and women, who through no fault of their own, cannot find suitable employment. Oh, what a difference two years can make.



Jim Tusler

With these grim economic realities, this report cannot be comfortable, nor should it be. What some "experts" have advanced as the state's economic future, such as high-tech, wireless communications, and financial services, have proven to be just as

cyclical as the State's more traditional and more union-orientated industries such as forest products, metals, aerospace, agriculture, maritime and energy production.

This economy has created thousands of dislocated workers in every part of the state. There has been no time in the Labor Council's experience when the numbers have been greater. When our affiliated unions deal with mass layoff situations, the principles we have all developed continue to be our dislocated member's best hope. These principles include:

- Use the benefits of early warning and take steps to find alternatives to job loss.
- Provide Rapid Response by skilled Employment and Training staff.
- Advocate for dislocated workers through an active, empowered Labor-Management committee.
- Use peer support workers as the eyes and ears of the Labor-Management committee.
- Coordinate "effects" bargaining with what is available from the public sector.
- Never stop seeking alternatives to closing plants and layoffs.

Using these principles, we have had allies in this fight for better opportunities for dislocated workers. There have been many well-developed and well-run dislocated worker projects in the state. To our friends and allies, Labor says, "Thank-you, and together we can continue to improve." To those that say Washington State Assistance to dislocated workers is too generous, Labor says, "your comments have no value."

Oh yes, about the title of this report, "It's Just Not Fair." It relates to a lesson I learned the hard way while speaking to a group of our members who were soon to lose their jobs. I opened, complaining that it wasn't "fair" that cheap imports had flooded the market and closed their plant. A gentleman far smarter and more articulate than I'll ever be, stood and said, "Jim, do not use the word 'fair' when speaking of the economy, the workplace, or the struggles of working men and women. 'Fair' is only the place we take our pigs to in the fall. It is labor's heritage to help the victims of a cruel economy, and our obligation to agitate, plan and organize for a better economy. It will never be 'fair'."



Report of the WIA Labor Liaison

Two years ago we wrote about the wrenching changes in the public systems and programs we use to assist our affiliates and their members when facing dislocation and unemployment. Little did we know then that the worst effects of the downsizing of Employment Security was going to collide with the height of the recession, leaving Washington's working men and women more vulnerable than ever.

In spite of the bleak present, our members and their unions are acting more aggressively and creatively than ever to find new ways to retain employment and



Lori Province

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avert the disaster of layoff and plant closure. When the U.S. Coast Guard adopted new international maritime safety rules, it imperiled jobs of about 6,000 incumbent maritime union workers in Washington. The maritime unions and their signatory employers began to work proactively on a layoff aversion program to ensure that each maritime worker employed on 2/28/2002 would still hold their jobs on 3/1/2002. Thanks largely to their collective efforts, these jobs were not lost and the cascading effect of lost maritime jobs, (e.g.; curtailment of port cargo shipments) on the rest of Washington's economy was averted.

While we regularly utilize the benefits of the Trade Act and NAFTA to support our members who have lost their jobs, the last year has seen limits that are new and troubling. It seems like the current administration and congress have linked benefits for workers to the reauthorization of Fast Track. It seems that future potential beneficiaries of the Trade Programs will receive benefits only if the President gets authority to negotiate new trade agreements that will likely cause more business to flee our borders, with the resulting job losses for our members and affiliate locals.

The twelve local Workforce Development Councils, who are charged with providing service to our members and others in their communities, are beginning to take charge of their mission. The labor representatives who sit on these boards are a minority in their councils, but they are finding ways to form coalitions and move labor's agenda forward:

- Community wage self-sufficiency standards are helping guide the expenditure of public dollars toward family wage training and employment. This helps level the playing field for unions to participate in guiding which employers receive public dollars and assistance with training needs. We will always advocate for the high road and support of employers who pay a fair wage and provide benefits, rather than the low road where an employer's low pay makes the worker and his/her family survive on subsidies (like free hot lunch and/or medicaid) from our taxes.

- At the request of labor members in one area that was experiencing mass layoffs due to a mill closure, local workforce development council representatives contacted a new employer in the community. The employer agreed to do a special job application intake for those laid off workers. This produced RE-employment, not UN-employment, for many workers in that rural community.

Finally, a word about the barriers our members face when trying to access the public service system: they exist between programs from different agencies, they exist between training and the next job, and they exist between economic development and workforce development. Barriers can be the lack of Spanish speaking counselors, the lack of bus service to and from work and school, the lack of a community economic development plan that reaches out toward the high road. It can even be the employer community using temp agencies for hiring rather than our publicly funded labor exchange.

Our labor reps are in precisely the place to identify these barriers, and to work toward their elimination, to the benefit of the economic prosperity of their neighbors and their communities.

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Report of the **Research and Organizing Director**

On the Hill

For the most part the 2001 legislative session was more of the same – pass good bills in the Senate, only to watch them die, usually without a hearing, in the House. One exception was SB 5136 that codified criteria for determining “reasonable assurance” for part-time faculty members for purposes of qualifying for unemployment insurance benefits between academic terms.

Then came the labor-neighbor program and thousands of volunteer labor hours later Brian Sullivan was elected to the House with a 12% election victory breaking a three year 49-49 split. With a 50-48 democratic margin in the House many pieces of working family legislation were finally heard and passed during the 2002 legislative session. I want to mention two in particular.



Jeff Johnson

HB 1248 Prime sponsored by Representative Lynn Kessler and Senator Betti Sheldon made Washington State the eighteenth state in the country to provide unemployment insurance benefits to workers who are victims of domestic violence and who had to flee their jobs in order to protect themselves and their children. This legislation provides a small financial relief valve to workers who have earned their unemployment benefit credits and who were forced to leave their job through no fault of their own and at the same time lowers health care and lost day costs to business and provides for a safer work environment since three-quarters of domestic violence victims are contacted at work by their abuser.

The legislation passed with strong legislative leadership but also because of strong coalition work with labor, women's' groups, legal services, and the domestic violence community. Special thanks to coalition leader Pamela Crone, N.W. Women's' Law Center, Lonnie Johns-Brown, National Organization of Women, Rebecca Smith, National Employment Law Project, and Bruce Nees, Columbia Legal Services.

HB 2901 culminated nine years effort in trying to make the unemployment insurance tax system more equitable and it solidified retraining benefits for dislocated workers. This bill freed up to \$34 million in income support for dislocated aerospace workers in retraining programs and lessened the pressure on the annual \$20 million in income support for other dislocated workers in retraining programs. HB 2901 also ensured that our trust fund balance remains solvent through these recessionary times. In exchange for this labor agreed to a two year freeze in maximum benefits and a cap on the rate of growth of maximum benefits through 2010.

HB 2901 also took a major bite out the “socialized cost” issue whereby industries with more stable employment patterns have historically subsidized those industries, e.g., construction, that have high turnover and are responsible for the highest UI costs. It raised the top tax rates slightly, raised the taxable wage base for industries in the top rate class, and created an equity surcharge on businesses that haven't paid their fair

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share of UI premiums in at least three of the last four years. (The construction industry, and residential construction in particular, has been subsidized to the tune of \$750 million over the past eight years.)

Organizing

Over the past couple of years WSLC officers and staff have helped generate political and community support for a number of organizing drives throughout the state as well as legislative support for collective bargaining for state employees, home care workers, graduate assistants and higher education faculty.

My organizing work has focused primarily on low wage and immigrant workers. Since June 2000, we have participated in amnesty hearings, marches and rallies, and lobbied our congressional delegation on the need for significant and progressive immigration reform and amnesty, and are currently working with SEIU and the UFW on the million postcard campaign to pressure the Bush administration on these issues.

In August 2001 we had the first public hearing on a formal complaint initiated by the Teamsters and the UFW and brought by the Mexican Government against Washington State and state apple growers under the labor side accords of NAFTA. The charges levied in the complaint included violations of rights to association and organizing, employment standards, health and safety standards, and workers' compensation benefits. While progress to eliminate these concerns has been slow, we have for the first time ever gotten state government to systemically address farm worker issues.

For the past year I have been working with Lupe Gamboa of the UFW and a small steering committee on the Fair Trade Apple Campaign. The 2001 WSLC convention and National AFL-CIO convention passed resolutions endorsing the campaign, and the AFL-CIO has since given the UFW a 15-month grant for the campaign. This multi-year campaign is about bringing fair prices, fair wages and a union contract to thousands of farm workers in Washington's apple industry.

Thank you again for the opportunity to work for you and with you in the struggle for social and economic justice.



Report of the Political Director

The two years since our last constitutional convention have been busy, but exciting times. While the 2000 elections were cause for celebration, we also had our share of disappointments.

How exciting for the labor movement in Washington State to be instrumental in taking the U.S. Senate out of the hands of the anti-union forces. Our role in helping to defeat Slade Gorton and replacing him with Maria Cantwell would set the stage for the eventual change of majority in the "other" Washington. With Maria's election, the U.S. Senate was tied 50-50. With the decision of Senator James Jeffords of Vermont to



Diane McDaniel

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leave the Republican Party and become an "Independent," the reins of the U.S. Senate were turned over from Trent Lott to Tom Daschle. What a difference one race can make and we were part of the difference!

2000 was also the year we all stayed glued to CNN, CNBC and the other network news as we followed the drama of the race for U.S. President. With heavy hearts and in a state of shock, we watched the presidency snatched from the rightful winner and into the hands of George W. Bush. Bush wasted no time in launching his attack on organized labor. Each day the "Bush Watch" on the National AFL-CIO website saw a new tactic from the Bush Administration in their retaliation against the labor community. While we have been forced to move on and accept the outcome of the presidential election, we will remember each and every attack that Bush has initiated against us. We will live to fight another day. And, 2004 is just around the corner.

In 2001, we had the opportunity with the resignation of one legislator and the death of another to break the 49-49 tie that had crippled the state legislature for three sessions. We launched our Labor Neighbor pilot program and vowed to prove that the green of our grassroots could beat the green of the anti-union wallets any day. And, prove it we did. With the election of Brian Sullivan in the 21st District, the tie was broken that led to the passage of major labor legislation in 2002, including 4 collective bargaining bills. Both Brian Sullivan and Speaker of the House Frank Chopp have credited Labor Neighbor with providing the winning margin that broke the tie!

We will take what we learned last year and expand Labor Neighbor to other parts of the state. We will use this grassroots field program to communicate with rank-and-file members in targeted districts across the state. Our field program will also be the vehicle for the passage of Ref. 51, the transportation-funding package. Labor CAN and MUST grow our grassroots and develop an army of volunteer activists. We have a chance in 2002 to prove that last year was no fluke and that we are no Paper Tiger.

Organized labor must strive to be feared by both our enemies and friends, and to continue to build the strongest political program of any group in the state. With your continued help, I am confident we will. Thank you for your support of our program.



Report of the Publications Director

In case you haven't noticed, the Washington State Labor Council has moved away from the traditional model of printed newsletters as the primary means of communication between the council, its affiliates and union members who ask to be on our mailing list. We have increasingly utilized the more timely and cost-effective methods of electronic communication: fax, e-mail and website. That shift has less to do with cost (although that *is* a factor, right AI?) than our success in generating phone calls, e-mails, event turnout or other immediate response with electronic Calls to Action on "breaking" issues.



D. Nolan Groves

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In 2002, we ended production of our regular 8-page printed newsletter *WSLC Reports*, which had withered on the vine to become a rehashed summary of old news, often "copy-and-pasted" from more detailed electronic reports distributed the day the news happened.

But recognizing there are still some folks who don't use the Internet, don't have access to a fax machine, or simply prefer to receive newsletters in the mail, we replaced *WSLC Reports* with the *New and Improved WSLC Reports®* which is published more frequently (every month), but is smaller (a single two-sided legal sheet). We notified subscribers to the *Old, Withered WSLC Reports* that they could either stay on the list to receive the *New, Improved WSLC Reports®* or they were invited to join our fax or e-mail list, if they hadn't already. Only a couple hundred subscribers asked to stay on the traditional mailing list, but our fax and e-mail list spiked with new members.

And what of this electronic network of union leaders and members? To date, our e-mail list has grown to more than 1,300, many of whom report that they have address books full of members that they selectively forward the messages to. Others are labor editors who use the information in their publications or on their union's website. There are a few hundred additional people in our address book who either are not union members or failed to indicate their union affiliation when they signed up. This group receives some, but not all of the e-mail postings.

As they say in the biz, this is a "good list." Not "good" because there are so many on it, but "good" because with very few exceptions, everyone on this list proactively requested to be on it and therefore are more likely to read it – and act on it. Unlike some electronic evildoers out there, the WSLC does not seek union members' e-mail addresses to add to the list without the consent of the recipient. Almost everyone on the list filled out the form at our website requesting to be added, or called and asked to be added.

Our broadcast fax list includes every affiliated union organization for which we have a number (unless they have requested to be removed), plus some individuals who prefer to receive faxes. And of course, as those of you on our "affiliate" mailing list are very aware, we still send plenty of information via U.S. Mail.

I continue to be pleased with the WSLC website traffic (visit www.wslc.org as soon as you finish reading this). It is difficult to compare it to previous measurements because it is now tracked by "page views" and various other measures, as opposed to simple "hits." Without boring you by explaining the difference, suffice to say we have roughly 500 unique users a day who view an average of two pages a visit, and gravitate toward the WSLC Reports Today page with the daily news and media links. I continue to get lots of positive and constructive feedback from regular users (thank you), so I feel it's worth the continued investment of my time to post fresh news every day – before 9 a.m.!

I'm about to embark on another round of election direct mail design and production. This will continue to be an important element of our political program, now enhanced by the Labor-Neighbor grassroots program. In addition to the mail, I will be designing many camera-ready fliers and handouts for Labor-Neighbor volunteers to distribute on their appointed rounds. Those will also be available at our website.

Finally, this year I celebrated my 10-year anniversary with the WSLC—5 years

on the support staff and 5 on the administrative staff—and I want to thank the officers and affiliates for the opportunity to earn a living doing something I care about. And I want to thank the rest of the staff for their assistance and effective work—in particular the unsung support staff (and those of us who've experienced Karaoke Night at convention would thank you to remain unsung).



Report of the Project Help Director

CLAIM ASSISTANCE

The primary mission of our program is to assist injured workers and unions with resolving claim issues. The Project Help program provides individual claim counseling for injured workers. Frustration, depression, anxiety about their claims, return-to-work issues, and family problems are very real to the people who call us. Claim managers struggle with the emotional aspects of each claim. They don't have time to listen to injured workers' issues and concerns. The claim manager's job is managing the components of the claim, and they have limited ability to identify or deal with the frustrations of being injured. The old adage of "you're only a number" applies to the claim process. Project Help is an advocate for our injured workers who are feeling lost in the workers' compensation system.



Vicky Smith

Injured workers need someone to talk to and have their feelings validated. Dealing with the emotional aspects of the claim is essential to the healing process. Injured workers call Project Help because they trust us. Most of the workers or unions who contact our office have attempted to resolve their claim issues with the Department and they are one step away from hiring an attorney. Attorneys cost one-third of an injured workers' benefits - that's a high price to pay for feeling lost and needing direction or assistance on a claim. Delay in the system causes anger and, the longer the delay, the greater the frustration.

Project Help has access to the Department of Labor and Industries' computer system. We have the ability to quickly discern the status of a claim, and provide workers with necessary information needed to make good decisions on their claim. We also have the ability to communicate directly with claim managers via the Department's email system. This helps to prioritize the claim issue, hopefully moving it forward. Injured workers can contact us directly on the toll-free watts line, saving the cost of calling the Department long distance. While we can't fix every problem, we do inform workers of their rights and responsibilities under the law, should they choose to pursue their issues further to the Board of Industrial Insurance Appeals. If you have workers who are injured and are having problems with their claims, send them our way. Project HELP is a free claim service available to workers and unions. Kairie Pierce, Project Help Claim Coordinator, understands the issues injured workers face. To contact the Project HELP claims office call 1-800-255-9752.

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EDUCATION

Understanding workers' compensation is the first step to helping union members. The system can be complex and confusing. Having a basic understanding of what happens in the workers' compensation system provides labor organizations with the ability to represent their members effectively. Education is a powerful tool against abuse or intimidation. Project Help offers training and educational programs free of charge to all interested parties. Workshop requests vary, from specific industry issues to basic classes on learning how the system works. Safety and workers' compensation go hand in hand. When safety fails, injuries result and education can help. To request a workshop for your local, contact me in our Seattle office (206) 281-9555.

Every year the Washington State Labor Council and the Project HELP program hold the Annual Workers' Compensation Conference, "A Meeting of the Minds", covering information that is beneficial for union members, shop stewards, business representatives, and employers. The conference provides a wide variety of topics surrounding workers' compensation, from the most basic to advanced issues. This year's conference is scheduled for October 17 & 18, 2002, and will be held at the Shoreline Conference Center. Among the many issues to be covered at this year's conference are the state's new rule designed to prevent ergonomic injuries, presented by Michael and Barbara Silverstein, and an update on the Occupational Health Services Pilot Project by Dr. Gary Franklin. The keynote luncheon speaker will be Glen Woodbury, Director of Emergency Management Services. As always, the conference will feature a wide variety of workshops and topics geared for all levels of understanding and interest. This year we've added an introductory session the day before the conference begins for participants seeking basic information. The "Learn How the System Works" workshop designed to explain the basics of workers' compensation system to new participants will be held the day prior to the conference on Wednesday, October 16, 2002 from 1:00 - 3:30 p.m. at the Seattle Labor Temple.



Kairie Pierce

*Project Help Claims
Coordinator*

LABOR/MANAGEMENT FACILITATION

When we refer to Labor and Management working together, some labor representatives cringe. They don't believe in it, and they don't trust it. Traditionally, the relationship between labor and management has been adversarial at best. When it came to workers' compensation, most unions recommended their members hire an attorney. The questions we need to be asking are "how do we prevent accidents from happening" and "how can we better care for injured workers after an accident occurs." It makes sense to discuss issues which impact all parties. Working together means cutting through the delays in the system, opening the doors to better communication and looking at ways to expedite services to injured workers. When claims go to litigation, the only real winners are the attorneys. If your union is interested in having Project HELP facilitate Labor/Management discussions about workers' compensation, please feel free to contact me.

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Report of the **Special Assistant to the President**

It is very important that we put the victories of the last legislative session in the context of a larger picture.

The attack on government and the effort to demonize government and public sector workers has been relentless over the past several decades. We cannot underestimate the damage that has been done to the critical role government has played in protecting working people, the poor, the vulnerable and our environment. Those forces (business and the ideological right) seeking to deconstruct government's role have succeeded to a great extent in cutting off many of the essential revenue streams, equating government with loss of freedom, and have also succeeded in objectifying and demonizing many of those who provide the essential services who, for the most part, are union workers.



Robby Stern

These forces are very powerful within our state and our legislature. In fact they are a hair breath away from controlling both houses. They have made our friends timid in many ways and have blocked our friends from trying to address the larger problems we face.

We have succeeded in a variety of ways in the last session. Through the various collective bargaining bills, we have created the potential for growth and when we grow, we create a larger progressive force in our state. We all know organized workers, because of the fundamental ethics of unionism, are more likely to watch out for the interests of others as well as themselves. We eliminated an obstacle to our ability to get political donations from our members, and helped our members out in a variety of ways from training, to labor standards, etc.

But, in the bigger picture, the gains were very modest. There are no new revenue streams of any real substance, and in fact there are new tax breaks. State employees received 0 cost of living increase, and the transportation fix is, at best, flawed. Our friends could not muster the votes to pass a transportation package, **as a result of the strength of the anti-government forces.** The ergonomic rule was weakened as a result of the Governor's decision. Efforts to get control of the escalating costs of health care failed.

We have a very large mountain to climb and this session helped us to get to a base camp from which we can move forward. There is much much more that we need to do from helping government play the role we all want it to play, to tax reform, to health care reform, to insisting on fair treatment for all workers.

As a labor movement, I believe our direction must be "Politics and Organizing: Organizing and Politics". We are the voice and the hope of workers in our state. I thank you for allowing me to play a role in building our movement, and I look forward to continuing this work in the future.

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Report of the **Education and Safety Director**

It is hard to believe that it has been two years since my last report. It really is true that time goes by quicker the older you get. I hope the adage holds true that you also get wiser. My six years working for you and the State Labor Council have been the most rewarding and at times the most frustrating work I have ever done. Many of you know that I was an Iron Worker prior to coming to work for the council. No matter how hard that work was I was always able to see my progress. Today that's not always the case, but I've learned you never give up because those who oppose our working people's agenda will always be looking for ways to profit at the expense of working people and the public interest.



Randy Loomans

This past legislative session saw so many accomplishments for labor. With Democratic control of the House, Senate and the Governor's office we were able to see many labor-supported bills passed that never were allowed hearings in the split house of the past three years.

Much of my focus in these past two sessions was spent defending our state's Ergonomic Rule. This Rule (the best in the country) has been under continual attack by business lobbyists since its adoption in November of 2000. Business wanted a repeal of the rule but was not able to move any legislation. A small vocal group of business lobbyists were able to persuade the Governor to delay the enforcement of the rule for two years. In the mean time 100,000 workers in our state will continue to suffer these types of injuries with no relief. I was very disappointed in the Governor's decision. This opens the door for continued attacks from business. It's far from being over. Labor took the high road in this process never stooping to the low tactics of business. I want to thank all of the Unions who worked to get the rule and those who have helped defend it. We consider this the most significant rule adopted since the inception of WISHA. I pledge to continue "the good fight" around Safety and Health.

Workforce Training is another area I spent a good deal of time on these past two years as Staff to President Bender on the Workforce Training Education Coordinating Board and Staff for the State Labor Council's Education Training and Apprenticeship Committee. We are assured a place at the table in all statewide policy decisions around Workforce Training. You no longer go to the unemployment office you now go to a One-Stop Worksource Center that provides a more holistic seamless approach to getting workers the services they need to get back into the workforce. I will continue to work with the State Building Trades on Apprenticeship Utilization on Public Works Projects. We are working on legislation for the 2003 session.

Last but not least, the most satisfying part of my job in getting into our schools and being able to go out and touch base with the rank and file through training's

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around Safety & Health, Common Sense Economics, Stewards Training's and Labor History. Knowledge gives us all power. I never forget for a moment that I work for you and I thank you for that privilege.



Report of the **Welfare-to-Work** **Project Director**

Welfare to work has been a pivotal component in the process of helping people make the transition from the welfare rolls to the payrolls. This is particularly true as it relates to addressing the issues of drug addicted, weakened and impoverished individuals who have truly benefited from its programs and services. Answering the call, organized labor has stepped up and faced the challenge that very few organizations even acknowledge exists.

The challenge is to ensure people still have a voice and are afforded the opportunity to obtain real skills and livable wage employment. Labor set out to become a voice for the disadvantaged. Thus, the beat continues.



Raymond Mason

The Washington State Labor Council, AFL-CIO (WSLC) is in its fourth year of administering a \$4.6 million grant project to help the hardest-to-serve TANF recipients and non-custodial parents. These are people who face barriers including limited transportation and child care services; low education and skill levels; extensive chemical dependency; and other social and health problems, disallowing them to move into the workforce while maintaining a lifestyle free of substance abuse. The WSLC has served welfare recipients in urban enterprise communities (Tacoma/Pierce County and now King County as well), and rural districts (Yakima, Kittitas and Klickitat counties). Both areas have worked to provide services to Puyallup and Yakama Native American Tribes.

The International Association of Machinists' Centers for Administering Rehabilitation and Employment Services (IAM-CARES) has been a key partner in this project providing services for individuals with employment and substance abuse related issues. Other important partners include state and local workforce development agencies, Employment Security Department, Department of Social and Health Services, Economic Services Administration, Division of Alcohol and Substance Abuse, and local labor councils.

To understand the profound impact the program has made in the life of welfare recipients who have been addicted for a long time, one must understand the poverty of spirit they often experience. The lack of understanding about substance abuse and addiction lends itself to many mistaken ideas about the recovery process, and its meaning for welfare clients. In many cases (such as those served by the WSLC competitive grant project) it's more or less a discovery; many are just learning for the

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first time what it's like to have normal health, poise or status. To realize the value of welfare to work and its significance to the substance abuse recovering population, we would have to understand three interrelated processes:

1. Chemical Dependency/Addiction/Substance Abuse

Substance abuse refers to the behavior of taking a drug (including alcohol and psychoactive medications) in a way which impacts a person's ability to function adequately. Chemical dependency, or addiction, is a chronic illness produced by repeated substance abuse, and is characterized by the person's inability to stop taking the drug even when it produces destructive results, such as job loss.

Although there are many definitions (textbook and street) for chemical dependency or addiction, the effects and results are the same. It prevents people from becoming functional and productive, in family, vocational or societal roles. Before one can consider productive work life for long-term welfare clients, the possible existence of chemical dependency must be faced. Welfare reform has been instrumental in presenting this reality in attempts to move people off welfare rolls with programs such as Washington state's Workfirst. For individuals getting sent back to the Community Service Office due to their inability to obtain or sustain employment, in many cases, this is an indication of substance abuse. Although the WSLC, does not initially fund substance abuse treatment, it is encouraging to know our program and others can use WtW funds for non-medical treatment. This in itself is a major step forward in getting people off welfare and moving toward employment.

2. Detoxification/Treatment

Many WtW programs may have experienced a potential participant in need of detoxification from alcohol and other drugs during their program's point of entry. Although detoxification does not necessarily need medical attention in order to be effective, it is important that community based organizations are in place to identify and provide the necessary intervention needed. Making the appropriate referral to the treatment professionals allows them to help start that individual and his or her family on the journey to recovery/discovery, beginning with treatment. The goal of treatment should be total abstinence. Treatment is where one gets or learns the tools, and acquires necessary skills to incorporate the concepts and principles for a lifestyle change free from substance abuse or dependence. Most people do better knowing that there is a support system in place upon completion of treatment, such as WSLC's WtW grant project.

3. Recovery/Discovery

It is important to know the difference between treatment and recovery/discovery. It is my belief that much of the problem in working with this population comes from not being able to make a distinction between the two.

The purpose of the project is to direct recovering chemically dependent TANF recipients (and non-custodial parents) through unsubsidized employment. To facilitate this process, we are cognizant of a dual mission: **Continuing care**—guiding and supporting newly-recovering participants through the stresses of early recovery (including the stress of new employment); and **Employment**—guiding and supporting participants in finding employment and in dealing with obstacles (especially those related to early recovery) to maintaining employment.

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In addition to employment preparedness and on-the-job support, the project also offers individualized recovery support through counseling.

We must also keep in mind that these services extend far beyond the participant receiving this beneficial assistance, but the countless children who lives will be encouragingly impacted through witnessing the positive change in their parent's lives!

Since its inception, Labor has been the vehicle for the disadvantaged, poor and working poor. It is the voice for working families and families out of work as well. Welfare to Work with the support of WSLC has been an essential part in providing hope for these families.



Report of the **Community and Technical College Liaison**

The position of Community and Technical College Labor Liaison is the result of a partnership formed by the Washington State Labor Council AFL-CIO (WSLC) and the State Board of Community and Technical Colleges (SBCTC). The emphasis is to help improve professional/technical training programs at the colleges by increasing labor involvement.



Steve Ignac

I am assigned to the council's Olympia office but I travel the state to foster and facilitate active and authentic partnerships between organized labor and community and technical colleges outside of King County. The focus is to strengthen labor's participation in college workforce education and training programs including worker retraining, skill standards, apprenticeship and tech prep. To accomplish this, I have followed a work plan which contains 4 goals:

Goal 1: Increase active participation of labor representation on college program and general advisory committees and boards. I actively recruit individuals from Central Labor Councils and AFL-CIO affiliate unions to participate on college committees and boards. There are various levels of involvement. Colleges want union members to be on program advisory committees from career fields that have the skills the students are trying to learn. They want labor represented on their general advisory committees which oversees the operation of all professional and technical programs. Labor also needs to be represented on the Board of Trustees which oversees the operation of the college. Are you interested in being a voice for organized labor at your local college? You can find out how at (360) 943-0608.

Goal 2: Improve the level/quality of participation by labor representatives on advisory committees. I offer and provide training to union volunteers so they will understand their roles and responsibilities as advisory committee and board members. The "Roles and Responsibilities" (R&R) training available consists of a power point or transparency presentation. I am available to present at labor council and/or union meetings upon request. Advanced notice is appreciated, as I like to coordinate

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presentations with a representative from the local community or technical college. Labor has a voice and a responsibility to make sure it is heard on community and technical college Program Advisory Committees, General Advisory Councils and Boards of Trustees. It is extremely important for organized labor to have a voice and make it heard in these advisory arenas. Boards and committees significantly influence workforce education and training initiatives in your area.

Goal 3: Educate college administrators and leaders about labor issues, facilitating partnerships including labor initiated training and resolving issues between labor and the college system. I present to 34 community & technical college Workforce Deans/ Vice Presidents, who comprise the Workforce Education Council (WEC), at their quarterly meetings so they will be aware of labor issues. I also do a workshop that I call "Unions 101" so the administrators, faculty and staff will understand how unions work. I invited college administrators from the WEC to participate in the R&R trainings to discuss issues with union members. I have had meetings with Vocational Directors/Administrators in every Community & Technical College (outside King Co.) to identify their labor volunteer needs. This also afforded me the opportunity to inform them about organized labor's position on various issues.

Goal 4: Maintain effective 2-way communications with the State Board Staff on labor policy and perspectives on workforce education. I have made it a point to keep the State Board staff up to date on labor policy as it relates to workforce education. The first Monday of every month I attend the Workforce Education Department staff meeting. I also meet regularly with SBCTC Program Administrator, Rebecca Rhodes and King County Labor Liaison, Joan Weiss. Together we work toward the success of the college/labor partnership.

Thank You

Thanks to my mentors at WSLC and SBCTC who keep me "on the path." Many thanks go to you, the union members in Washington State, who volunteer countless hours to make sure that workforce education leads to high skill/high wage jobs!!!



Report of the Substance Abuse Liaison

Working Drugfree is a program providing substance abuse policy instruction, training and technical assistance to union leaders and members in Washington State on matters relating to alcohol and drug prevention, intervention and treatment.

The Labor Liaison for Substance Abuse Services is a grant-funded program partnering with the Department of Social and Health Services, Division of Alcohol and Substance Abuse and the Northwest HIDTA.

Methamphetamine is one of the most destructive drugs available today. Its low cost, ease of production and accessibility make it particularly attractive to those



Suzanne Moreau

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who don't understand the risk associated with its use. In an effort to raise public awareness of how devastating this drug is we have worked with several communities and their Meth Action Teams to produce summits that have reached thousands of individuals. Although drug abuse of any kind limits personal potential, methamphetamine presents an especially difficult problem. A powerfully addictive drug, its users can have sudden episodes of violent behavior. Many law enforcement officials attribute upwards of 60% of all crime to methamphetamine.

Check our web site, www.workingdrugfree.org for access to current resources in the fields of treatment and prevention for our members and their families. Should you or your local union need any materials, we have developed a Working Drugfree information packet. We also have videos, posters and additional data available for your use.

We are able to customize a substance abuse education program for your local union and work place. Workshops have covered a variety of topics including:

- Club Drugs and Meth
- Drug Testing
- Employee Assistance Programs
- Your rights under the law and collective bargaining agreements
- Parenting issues and substance abuse
- Peer Counseling and Stress Management

Alcohol and substance abuse may be a problem across the nation but the solution depends on community awareness and involvement.

Please do not hesitate to call or e-mail the State Labor Council with your specific requests as they relate to alcohol and drug prevention, intervention and treatment.

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Declaration of Diane McDaniel
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DECLARATION OF DIANE MC DANIEL

I, Diane McDaniel declare, under penalty of perjury, that the following is true and correct:

1. I am the Political Director of the Washington State Labor Council, and have held that position at all times from 2000 through the present.
2. I have been asked to estimate the percentage of the Labor Neighbor Program that is devoted to federal, rather than state or local elections and ballot measures, in years when there are federal elections. I believe the appropriate percentage is 33 1/3%. I reach that conclusion because in contacts with members, the primary focus is on no more than three races. At least one of those races is the presidential race. In even-numbered years when there is no presidential race, one third of the primary focus would be on the senate race or, if there was none, on the Congressional race in that District.
3. Of my time during the course of the calendar year, my best estimate is that at least 60% is devoted to activities that do not involve supporting the election of state candidates. My year-round activities include extensive time responding to inquiries from affiliated unions regarding PDC compliance and, to a lesser degree, FEC compliance. I also conduct training of affiliates in PDC compliance. I also conduct generic election training for members of affiliated unions, none of whom are declared candidates for state or local office at the time of the training, and very few of whom ever become such candidates. In addition, I devote many weeks each year to obtaining, maintaining and updating member lists from affiliated unions, to assure that in our Labor-Neighbor program we are contacting only union members. In addition, I conduct voter registration drives, and encourage and train affiliated unions to do the same. Finally, in even-numbered years, I devote significant efforts to urging members of our affiliated unions to support federal candidates.
4. The expenditure reports that I prepare each year identify expenditures for file maintenance, voter registration, and training. I have directed Bernice Vance to deduct those expenditures when computing the percentage of the WSLC's expenditures that are for state political activities.
5. In addition, because Labor-Neighbor is roughly 33 1/3% federal, I have directed her to deduct that percentage from the expenditures for Labor-Neighbor when determining the percentage of WSLC expenditures that are for state political activities.
6. To the extent that persons other than I are involved in election-related activities, I have not adjusted their time unless there is a clear basis to do so. For example, to the extent that the publications director creates materials related to federal elections, I have directed Bernice Vance to adjust the percentage of time and hours devoted to state election activities.
7. I believe that the adjustments described in this declaration are needed to accurately estimate the percentage of WSLC staff time and expenditures that are devoted to state elections and ballot measures.
8. Virtually all time entered by Rick Bender and Al Link as "COPE" time is actually giving speeches to affiliated entities in which they encourage the entities to become involved in the legislative and electoral processes. I am not aware of any times when either of them is actually involved in directly supporting state candidates or ballot measures, except when they volunteer their personal, non-work time to participate in Labor-Neighbor on weekends. Nonetheless, Bernice has included all of their time as state election-related activity. This results in the percentages indicated somewhat overstating the portion of WSLC resources that are devoted to such activities.
9. The complaint alleges that in 2004, the per capita to the AFL CIO was increased to mobilize union households. Regardless of whether that allegation is true, it is irrelevant. In 2004, the WSLC has received no funds from the AFL-CIO in connection with any political activity, including, but not limited to, internal member communications. In addition, the following discussion of the 2002 per capita is fully applicable to the 2004 per capita.

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10. The complaint also alleges that in 2002, the per capita to the AFL-CIO was increased, for the same purpose. Again, even if that were true, it would have no impact on this case. The per capita to the AFL-CIO is paid by International Unions. Local Unions pay per capita to the WSLC, and the WSLC per capita was not increased in connection with political activities. In addition, the WSLC does not pay per capita to the AFL-CIO. Therefore, the actions by the AFL-CIO had no impact on the per capita received by the WSLC; nor did it result in any payments from the WSLC to the AFL-CIO.

11. In addition, the increase in per capita from the Internationals to the AFL-CIO does not increase the amounts that are paid by local unions to their International Unions, or the amount that individual members pay to the local unions as dues. Nor did it require any change in either of those amounts. The amount paid to an International Union by local unions within the International is controlled by the Constitution of the International Union. Typically, those amounts can be changed only at a convention of the International Union. Therefore, a change in the per capita from International Unions to the AFL-CIO cannot be translated into an allocation of a specific amount of an individual member's dues in Washington State.

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12. In addition, the added per capita funding from International Unions to the AFL-CIO funded member mobilization regarding grassroots lobbying and legislative activity, as well as electoral activity. Therefore, it is not possible to say that any specific portion of the per capita was allocated to electoral activity.

I declare, under penalty of perjury of the State of Washington, that the foregoing is true.

Dated this 12th day of October, 2004.

Diane M. McDaniel
DIANE MC DANIEL

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LAW OFFICES OF JAMES D. OSWALD

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TELEPHONE (206) 264-8558
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Sent via fax

October 11, 2004

Susan Harris, Assistant Director
Public Disclosure Commission
711 Capitol Way, Room 206
P. O. Box 40908
Olympia, WA 98504-0908

Re: Lund Complaint against Washington State Labor Council

Dear Susan:

By email sent on October 7, you asked that I address the question of how the stated goals and mission of the organization would be substantially achieved by a favorable outcome in an upcoming election.

The answer to that question is that the goals and mission of the WSLC is not substantially achieved in any single election, or even in a series of elections. The importance of elections is that they alter the environment in which the WSLC attempts to achieve its stated goals, and thus make it more or less difficult to achieve those goals.

For example, the goal of "combat[ing] the enemies of organized labor" is made more difficult if the political environment is one that favors the interests of entities that are encompassed by that description. Likewise, the political environment affects the ease with which the WSLC can "encourage harmonious action in matters affecting the welfare of our labor movement," "speak and act in defense and promotion of the whole body of laboring people" in the State, and "promote . . . the union . . . shop card."

On the other hand, the ability of the WSLC to advance harmonious action among locals, promote and distribute labor literature, encourage unions to affiliate with the WSLC, and give recognition to both industrial and craft unions is affected only marginally by the outcome of an election.

In short, the outcome of the elections in any one year has an appreciable impact on the ability of the WSLC to achieve its goals. The outcome of elections over a series of years has a more appreciable impact, in the aggregate. Therefore, the WSLC, in order to advance its overall goals and missions, participates in the political process.

ADMITTED IN WASHINGTON AND ALASKA

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WSLC Supplemental Response to 45 day letter
October 7, 2004
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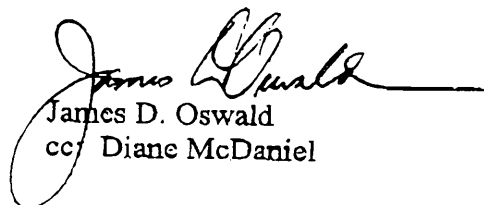
Regardless of the outcome of elections, the WSLC would continue to pursue its goals and missions. This is because the WSLC is not a political organization. It is a labor organization that participates in the political process as one of many ways that it advances its stated goals and missions.

I hope this additional submission is of some use to you in conducting your analysis.

If you need any additional information on this score, please feel free to contact me.

We are continuing to work on assembling the quantitative materials you requested, and are reasonably confident that we will be able to provide those to you by Tuesday, October 12.

Very truly yours,



James D. Oswald
cc: Diane McDaniel

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DECLARATION OF ALAN O. LINK

I, Alan O. Link, declare that the following is true:

1. I am over the age of 18 and am competent to testify to the following facts.
2. I am the Secretary Treasurer of the Washington State Labor Council (WSLC), and have held this position for over five years.
3. Among my responsibilities as Secretary Treasurer is to receive per capita payments from unions affiliated with the WSLC.
4. Pursuant to Article XI of the WSLC Constitution, affiliated unions are to pay a per capita tax of 80 cents "per member per month."
5. I do not audit the payments made by local unions; however, I am not aware of any union that pays per capita to the WSLC on individuals who are not members.

I declare under penalty of perjury that the foregoing is true.

Dated this 22nd day of September, 2004.

Alan O Link
Alan O. Link

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Susan Harris

From: Paul Berendt [paul@wa-democrats.org]
Sent: Tuesday, October 05, 2004 12:12 PM
To: Susan Harris
Cc: dmcdaniel@wslc.org
Subject: RE: WSLC contributions

This email is to confirm our conversation that the Washington State Labor Council has never earmarked contributions for designated candidates through its contributions to the Washington State Democratic Central Committee.

Paul Berendt

-----Original Message-----

From: Susan Harris [mailto:sharris@pdc.wa.gov]
Sent: Tuesday, October 05, 2004 11:29 AM
To: paul@wa-democrats.org
Subject: WSLC contributions

Paul:

This is in regards to our telephone conversation this morning. As I stated, we are in receipt of a 45 day letter filed by the Evergreen Freedom Foundation against the Washington State Labor Council. One of the allegations in the complaint is that the WSLC earmarked contributions through the WSDCC to candidates.

During our brief conversation, you stated that the WSLC has not earmarked contributions to specific candidates.

Is this correct? Please confirm.

Thank you for your time in this matter.

Susan Harris
Assistant Director
360-753-1981

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MEMORANDUM

To: Susan Harris

From: Kurt Young

Date: October 5, 2004

Subject: Dues paid to Washington State Labor Council by members

I contacted the International Aerospace Machinists District 751 (IAM #751) and the International Brotherhood of Electrical Workers Local #77 (IBEW #77) with regard to their per capita dues payments paid to the Washington State Labor Council (WSLC) as members.

- IAM 751 stated that the per capita dues transfer to the WSLC was based on all current IAM 751 members. The transfer to the WSLC did not include any portions for retirees or non-members.
- IBEW #77 stated that the per capita dues transfer to the WSLC was based on only current IBEW #77 members. The transfer to the WSLC did not include any portions for retirees or non-members.

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DECLARATION OF BERNICE VANCE

I, Bernice Vance, declare that the following is true:

1. I am employed by the Washington State Labor Council as Accounting Manager, and have been employed in this capacity for over ten years.
2. For each of the fiscal years 2001 (April 2000 through March 2001), 2003 (4/02 through 3/03) and 2005 to date (4/04 through 9/04), I have computed the percentage of the WSLC expenditures that have been devoted to state electoral activity, including ballot measures. I did not include the intervening years because expenditures were far lower in those years, in which few state elections occurred. I have included internal member communication in this computation because I understand that the PDC staff has requested that I do so.
3. To compute this percentage, I have included all political contributions by the WSLC, and its political committee, all wages, salaries, and fringe benefits paid to persons working on state electoral activity, and all expenditures for materials and outside services of related to state electoral activities. I have also included the portion of administrative staff, receptionist services, and management time that bears the same relationship to the total of such time as the other items identified in this paragraph bear to total expenditures, other than for accounting, management, and receptionist services.
4. The percentage of total expenditures that were for state electoral activity in the fiscal years 2001 through 2005 are as follows:

2001	13.91%
2003	13.77%
2005	16.00%
5. I have also computed the hours devoted to state electoral activity, in relation to the total hours worked by staff of the WSLC in the calendar years 2000, 2002, 2003, and 2004. For this purpose, I have used the same definition of state electoral activity as indicated in paragraph 1 above, and have allocated management, accounting, and receptionist hours, as indicated in paragraph 3 above. Those results are as follows:

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Declaration of Bernice Vance
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Year	State Electoral Hours	Total Hours	%State Electoral
2000	7,207	55,183	14.16%
2002	11,511	58,876	19.56%
2003	4,953	50,980	9.72%
2004	5,189	37,544	14.52%

I declare, under penalty of perjury of the laws of the State of Washington, that the foregoing is true.

Dated this 12th day of October, 2004.

Bernice Vance
Bernice Vance

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